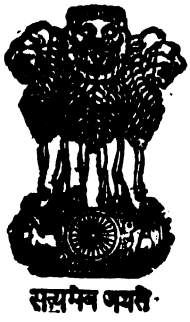

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(Part I—Questions and Answers)

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VOLUME I, 1952

(6th February to 5th March, 1952)

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of

PARLIAMENT OF INDIA

1952

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PARLIAMENT OF INDIA

ALPHABETICAL LIST OF MEMBERS

A

Abdullah, Sheikh Mohammad (Jammu and Kashmir).

Abdus Sattar, Shri (West Bengal).

Achint Ram, Lala (Punjab).

Ahammedunni, Shri V. C. (Travancore-Cochin).

Aiyar, Shri Alladi Krishnaswami (Madras).

Alagesan, Shri O. V. (Madras).

Alexander, Shri N. (Travancore-Cochin).

Ali, Shri A. H. S. (Hyderabad).

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Anthony, Shri Frank (Madhya Pradesh).

Arya, Shri B. S. (Uttar Pradesh).

Asawa, Shri Gokul Lal (Rajasthan).

Awadesh Pratap Singh, Captain (Vindhya Pradesh).

Ayyangar, Shri M. Ananthasayanam (Mysore).

Ayyangar, The Hon'ble Shri N. Gopalaswami (Madras).

Azad, The Hon'ble Maulana Abdul Kalam (Uttar Pradesh).

B

Baigra, Shri Moti Ram (Jammu and Kashmir).

Baldev Singh, The Hon'ble Sardar (Punjab).

Balmiki, Shri Kanhaiya Lal (Uttar Pradesh).

Barman, Shri Upendranath (West Bengal).

Barrow, Shri A. E. T. (Madras).

Beg, Mirza M. A. (Jammu and Kashmir).

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Bhanu Pratap Singh, Thakur (Madhya Pradesh).

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Bhargava, Pandit Thakur Das (Punjab).

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Bhatt, Shri Gokulbhai Daulatram (Bombay).

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Biyani, Shri Brijlal (Madhya Pradesh).

Borooah, Shri Dev Kanta (Assam).

Brajeshwar Prasad, Shri (Bihar).

Buragohain, Shri S. N. (Assam).

C

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Chattopadhyay, Shri Mihir Lal (West Bengal).

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Chaudhri, Srijut Rohini Kumar (Assam).

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D

Dalel Singh, Lt. Col. Kanwar (Rajasthan).

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Das, Shri Basanta Kumar (West Bengal).

Das, Shri Biswanath (Orissa).

Das, Shri Jagannath (Orissa).

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Dharam Prakash, Dr. (Uttar Pradesh).

Dholakia, Shri Gulabshanker Amritlal (Kutch).

Diwakar, The Hon'ble Shri R. R. (Bombay).

Dixit, Shrimati Kalawati (Madhya Pradesh).

D'Souza, Rev. Jerome (Madras).

Durgabai, Shrimati G. (Madras).

Dwivedi, Shri M. L. (Vindhya Pradesh).

F

Faiznur Ali, Moulvi (Assam).

G

Gadgil, The Hon'ble Shri N. V. (Bombay).

Galib, Shri Shaik (Madras).

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Gandhi, Shri Feroze (Uttar Pradesh).

Gautam, Shri Mohanlal (Uttar Pradesh).

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Govind Das, Seth (Madhya Pradesh).

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Guha, Shri Girija Sankar (Manipur and Tripura).

Gupta, Shri V. J. (Madras).

Gurung, Shri Ari Bahadur (West Bengal).

H

Hakim, Haji Gowherali Nuruddin (Bombay).

Hanumanthaiya, Shri K. (Mysore).

Haque, Al-Haj M. A. (West Bengal).

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Hazarika, Shri Mahendra (Assam).

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Himatsingka, Shri Prabhu Dayal (West Bengal).

Himatsinhji, Major-General (Saurashtra).

Hiray, Shri Bhaurao Sakharam (Bombay).

Hukam Singh, Sardar (Punjab).

Hussain, Shri T. (Bihar).

Hussain Imam, Shri (Bihar).

Hyder Husein, Chaudhri (Uttar Pradesh).

I

Inait Ullah, Khwaja (Bihar).

Indra Vidyavachaspati, Shri (Uttar Pradesh).

Ismail Khan, Shri Muhammad (Uttar Pradesh).

Iyyunni, Shri C. R. (Travancore-Cochin).

J

Jagjivan Ram, the Hon'ble Shri (Bihar).

Jain, The Hon'ble Shri Ajit Prasad (Uttar Pradesh).

Jain, Shri Nemi Saran (Uttar Pradesh).

Jaipal Singh, Shri (Bihar).

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Jajware, Shri Ramraj (Bihar).

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K

Kamath, Shri Hari Vishnu (Madhya Pradesh).
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Krishnanand Rai, Shri (Uttar Pradesh).
Krishna Singh, Thakur (Uttar Pradesh).
Kumbhar, Shri Ratnappa (Bombay).
Kunhiraman, Shri P. (Madras).
Kunzru, Pandit Hirday Nath (Uttar Pradesh).

L

Lakshmanan, Shri P. K. (Travancore-Cochin).

M

Mahammed Haneef, Moulvi (Orissa).
Mahata, Shri Kshudiram (Bihar).
Mahtab, The Hon'ble Shri Hare Krushna (Orissa).
Mahtha, Shri Sri Narayan (Bihar).
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Massey, Shri R A. (West Bengal).
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Munshi, Shri Pranlal Thakorlal (Bombay).
Musafir, Giani Gurmukh Singh (Punjab).

N

Naicker, Shri P. M. Audikesavalu (Madras).
Naidu, Kumari Padmaja (Hyderabad).
Naidu, Shri G. R. Ethirajulu (Mysore).
Naik, Shri Maheswar (Orissa).
Naik, Shri Shridhar Vaman (Hyderabad).
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Nausherali, Syed (West Bengal).
Naziruddin Ahmad, Shri (West Bengal).
Nehru, Shrimati Uma (Uttar Pradesh).
Nehru, The Hon'ble Shri Jawaharlal (Uttar Pradesh).
Nijalingappa, Shri S. (Bombay).
Nurie, Shri M. Y. (Bombay).

O

Obaidullah, Shri V. M. (Madras).
Oraon, Shri Theble (Bihar).

P

Pande, Dr. C. D. (Uttar Pradesh).
Pani, Shri Bijoy Kumar (Orissa).
Pannalal Bansilal, Shri (Hyderabad).
Pant, Shri Devi Datt (Uttar Pradesh).
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Potai, Shri Ramprasad (Madhya Pradesh).
Pustake, Shri T. D. (Madhya Bharat).

R

Raj Bhadur, Shri (Rajasthan).
Raj Kanwar, Shri (Orissa).
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Raju, Shri V. G. (Madras).
Ramachar, Shri G. (Hyderabad).
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Ram Subhag Singh, Dr. (Bihar).
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Rao, Shri V. C. Kesava (Madras).
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Reddy, Shri Konda Venkat Ranga (Hyderabad).
Reddy, Shri V. Kodamdarama (Madras).
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S

Sadiq Ali, Shri (Uttar Pradesh).
Sahaya, Shri Syamnandan (Bihar).
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Saksena, Shri Mohan Lal (Uttar Pradesh).
Samanta, Shri Satis Chandra (West Bengal).
Sanjivayya, Shri D. (Madras).
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Sardar Singhji, Shri (Rajasthan).
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Satish Chandra, Shri (Uttar Pradesh).
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Seth, Shri Damodar Swarup (Uttar Pradesh).
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Shiv Charan Lal, Pandit (Uttar Pradesh).
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Shukla, Shri Shambhu Nath (Vindhya Pradesh).
Sidhva, The Hon'ble Shri R. K. (Madhya Pradesh).
Singh, Dr. R. U. (Uttar Pradesh).
Singhania, Shri Padampat (Uttar Pradesh).
Sinha, Shri Anirudha (Bihar).
Sinha, Shri Awadheshwar Prasad (Bihar).
Sinha, Shri Braja Kishore Prasad (Bihar).
Sinha, Shri Kailash Pati (Bihar).
Sinha, Shri Mahamaya Prasad (Bihar).
Sinha, Shri Satyendra Narayan (Bihar).
Sinha, The Hon'ble Shri Satyanarayan (Bihar).
Sitaramayya, Dr. B. Pattabhi (Madras).
Siva, Dr. M. V. Gangadhara (Madras).
Sivaprakasam, Shri V. S. (Madras)

S—contd.

Snatak, Shri Nar Deo (Uttar Pradesh).

Soehet Singh, Sardar (P.E.P.S.U.).

Sohan Lal, Shri (Uttar Pradesh).

Sonavane, Shri T. H. (Bombay).

Sondhi, Shri B. L. (Punjab).

Sri Prakasa, The Hon'ble Shri (Uttar Pradesh).

Srivastava, Dr. J. P. (Uttar Pradesh).

Subbiah, Shri J. H. (Hyderabad).

Subramaniam, Dr. V. (Madras).

Subramaniam, Shri C. (Madras).

Subramanian, Shri R. (Madras).

Sunder Lall, Shri (Uttar Pradesh).

Swaminadhan, Shrimati Ammu (Madras).

T

Tek Chand, Dr. Bakhshi (Punjab).

Tewari, Shri Ram Sahai (Vindhya Pradesh).

Thakkar, Dr. Keshavlal Vithaldas (Saurashtra).

Tiwari, Shri B. L. (Madhya Pradesh).

Tribhuan Narayan Singh, Shri (Uttar Pradesh).

Tripathi, Shri H. V. (Uttar Pradesh).

Tripathi, Shri Kishorimohan (Madhya Pradesh).

Tyagi, The Hon'ble Shri Mahavir (Uttar Pradesh).

U

Upadhyay, Pandit Munishwar Datt (Uttar Pradesh).

Upadhyaya, Shri Ram Chandra (Rajasthan).

V

Vaidya, Shri Kashinathrao (Hyderabad).

Vaidya, Shri Vinayak Rao Balashankar (Bombay).

Vaishya, Shri Muldas Bhudardas (Bombay).

Varma, Shri B. B. (Bihar)

Varma, Shri Manikyalal (Rajasthan).

Veerabahu, Shri M. C. (Madras).

Velayudhan, Shri R. (Travancore-Cochin).

Velayudhan, Shrimati Dakshyani (Madras).

Venkataraman, Shri R. (Madras).

Vyas, Shri K. K. (Madhya Bharat).

Vyas, Shri Radhelal (Madhya Bharat).

W

Wajed Ali, Maulvi (Assam).

Y

Yadav, Shri Lakshmi Shankar (Uttar Pradesh).

Yashwant Rai, Prof. (Punjab).

Z

Zaidi, Colonel B. H. (Uttar Pradesh).

Zakir Husain, Dr. (Uttar Pradesh).

PARLIAMENT OF INDIA

The Speaker

The Honourable Shri G. V. MAVALANKAR.

The Deputy-Speaker

Shri M. ANANTHASAYANAM AYYANGAR.

Panel of Chairmen

Pandit THAKUR DAS BHARGACA.

Shrimati G. DURGABAI.

Shri PRABHU DAYAL HIMATSINGA.

Sardar HUKAM SINGH.

Shri MANILAL CHATURBHAI SHAH.

Secretary

Shri M. N. Kaul, *Barrister-at-Law.*

Assistants of the Secretary

Shri A. J. M. ATKINSON.

Shri S. L. SHAKDHER.

Shri N. C. NANDI.

Shri D. N. MAJUMDAR.

Shri C. V. NARAYANA RAO.

GOVERNMENT OF INDIA

Members of the Cabinet

Prime Minister and Minister of External Affairs—The Honourable Shri Jawaharlal Nehru.

Minister of Education—The Honourable Maulana Abul Kalam Azad.

Minister of Defence—The Honourable Sardar Baldev Singh.

Minister of Labour—The Honourable Shri Jagjivan Ram.

Minister of Health and Communications—The Honourable Rajkumari Amrit Kaur.

Minister of Works, Production and Supply—The Honourable Shri N. V. Gadgil.

Minister of States, Transport and Railways—The Honourable Shri N. Gopalaswami Ayyangar.

Minister of Commerce and Industry—The Honourable Shri Hare Krushna Mahtab.

Minister of Food and Agriculture—The Honourable Shri K. M. Munshi.

Minister of Natural Resources and Scientific Research—The Honourable Shri Sri Prakasa.

Minister of Finance—The Honourable Shri Chintaman Dwarkanath Deshmukh.

Minister of Planning—The Honourable Shri Gulzarilal Nanda.

Minister of Home Affairs and Law—The Honourable Shri Kailas Nath Katju.

Ministers not in the Cabinet

Minister for the purposes of agreement between the Prime Ministers of India and Pakistan of the 8th April, 1950—The Honourable Shri C. C. Biswas.

Minister of State for Transport and Railways—The Honourable Shri K. Santhanam.

Minister of State for Information and Broadcasting—The Honourable Shri R. R. Diwakar.

Minister of State for Parliamentary Affairs—The Honourable Shri Satyanarayan Sinha.

Minister of State for Rehabilitation—The Honourable Shri Ajit Prasad Jain.

Minister of State for Finance—The Honourable Shri Mahavir Tyagi.

Minister of State for Home Affairs—The Honourable Shri R. K. Sidhva.

Deputy Minister of External Affairs—Dr. B. V. Keskar.

Deputy Minister of Commerce and Industry—Shri Dattatraya Parshuram Karmarkar.

Deputy Minister of Defence—Major-General Himatsinhji.

Deputy Minister of Works, Production and Supply—Shri S. N. Buragohain.

Deputy Minister of Food and Agriculture—Shri M. Thirumala Rao.

Deputy Minister of Communications—Shri Raj Bahadur.

THE

PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

VOL. I No. 1

Second day of the Fifth Session of Parliament of India.

PARLIAMENT OF INDIA

Wednesday, 6th February, 1952

The House met at a Quarter to Eleven of the Clock.

[MR. SPEAKER (SHRI G. V. MAVALANKAR) *in the Chair*]

MEMBERS SWORN

Shri G. L. Nanda (Bombay).

Shri V. G. Raju (Madras).

ORAL ANSWERS TO QUESTIONS

U. N. MILITARY OBSERVERS IN KASHMIR

*2. **Shri Raj Kanwar:** Will the **Prime Minister** be pleased to state:

(a) the present strength of the United Nations Military Observers in Kashmir;

(b) to which countries they belong and in what numbers from each country;

(c) the total annual expenditure involved on their upkeep;

(d) whether they submit reports of their observations at regular intervals to the U.N.O.; and

(e) if so, whether copies of the same are supplied to the Governments of India and Pakistan?

The Deputy Minister of External Affairs (Dr. Keskar): (a) The present strength of United Nations Military Observers on both sides of the cease-fire line is 47 excluding signal staff, air craft crews etc. who total 31.

(b) The 47 observers belong to the following countries:

Country of origin.	No. of Observers.
(1) Australia ...	9
(2) Belgium ...	5
(3) Canada ...	5
(4) Chile ...	2
(5) Denmark ...	2
(6) New Zealand ...	3
(7) Norway ...	1
(8) Sweden ...	2
(9) U.S.A. ...	18
	47

(c) Expenditure on account of their pay and allowances and on travelling expenses outside Jammu and Kashmir is not met by the Government of India. Ordinary living expenses, in or outside the State, are met by the Observers themselves. It is only when they visit forward areas that they are housed and fed by the units/formations concerned. No extra expenditure on account of accommodation so provided is involved, but expenditure on account of rations is borne by the Government of India. The Observers on the Indian side of the cease-fire line are also provided free transport by the Government of India. The total annual expenditure on this account is not readily ascertainable.

(d) Government of India have no information.

(e) Does not arise.

Shri Raj Kanwar: What was the strength of the military observers when they were originally appointed?

Dr. Keskar: The military observers that I have stated just now is from the very beginning of the agreement.

Shri Raj Kanwar: Are the reports of the military observers being received at regular intervals or from time to time?

Dr. Keskar: The military observers submit their reports to the United Nations and not to the Government of India or to the Government of Pakistan.

Shri Raj Kanwar: Are copies of those reports supplied to the Governments of India and Pakistan by the U.N.O.?

Dr. Keskar: Whenever necessary.

Shri A. C. Guha: Have the Governments of India and Pakistan any say in the choice of countries from which these observers are to be recruited?

Dr. Keskar: No, Sir, that is entirely left to the U.N. Secretary-General. It is quite possible for the Government of India to object to appointment of any particular observer but the choice of countries is left to the United Nations.

Shri Kamath: How many observers, Sir, are stationed on our side of the cease-fire line and how many on the other side?

The Prime Minister (Shri Jawaharlal Nehru): The observers are not fixed on this or that side. They change over, they are continually changing over, some months on this side, some months on the other. It is the same number of observers functioning alternately on both sides.

Shri R. K. Chaudhuri: Has the Government any idea as to how long these military observers will continue to function?

Shri Jawaharlal Nehru: No, Sir, none whatsoever.

Compensation to Displaced Persons

*3. **Shri Raj Kanwar:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the probable date from which commencement of payment of compensation to displaced persons from (i) West Punjab and (ii) Sind is likely to be made;

(b) whether such compensation will take the form of cash or may even be made in the shape of urban land, house property, etc.; and

(c) from the figures so far available, what percentage of displaced persons' claims is expected to be paid as compensation?

The Minister of State for Rehabilitation Shri A. P. Jain: (a) to (c). Payment of compensation will commence soon after all the claims under the Displaced Persons Claims Act, 1950, have been assessed and the work of estimating the value of evacuee property in India completed. Every effort is being made to complete these tasks as early as possible. Percentage of claim likely to be paid as compensation cannot be stated at present. The mode of payment of compensation and other details are now under active consideration and a small non-official committee has been appointed under the chairmanship of Dr. Bakshi Tek Chand to advise Government.

Shri Raj Kanwar: Out of the total number of claims which have been filed and which are being verified at present, how many have been verified up to date?

Shri A. P. Jain: I have no figures up to date but I can give figures up to 15th January, 1952 which are the latest figures available. Up to that date out of five lakhs of claims 2,26,935 have been verified.

Shri Raj Kanwar: When is the work of verification of claims likely to be completed?

Shri A. P. Jain: The hon. Member can form his idea from what we have done already.

Shri Raj Kanwar: Can I have some idea as to the probable period it will take to complete the work?

Shri A. P. Jain: The performance up to date should be quite enough to give an indication as to how much time we are likely to take.

Shri Raj Kanwar: Is it possible to expedite this work by appointing more claims officers?

Shri A. P. Jain: We are trying to expedite it as much as possible.

Shri Raj Kanwar: What is the present strength of the claims officers?

Shri A. P. Jain: Roughly speaving, about 275.

Shri R. K. Chaudhuri: I could not quite follow the answer given to part (b). I want to know whether there is any truth in the suggestion contained in the question that compensation may be given by exchange of property in urban areas and other places.

Shri A. P. Jain: That may be possible.

Shri R. K. Chaudhuri: Is the Government considering the question in that direction?

Shri A. P. Jain: Government is considering every possible means by which compensation can be paid.

Sardar Hukam Singh: Is there any truth in the news which appeared in some newspapers some days ago that the Government intended to make part payment out of this compensation very soon without waiting for the results of an appraisal of the property?

Shri A. P. Jain: That wil not be possible.

Shri R. K. Chaudhuri: May I know if it is a fact that the amount of compensation which will be paid will entirely depend on the value of the evacuee property in India?

Shri A. P. Jain: That will be one of the factors.

Shri R. K. Chaudhuri: So the Government of India will pay nothing out of its pockets?

Mr. Speaker: Order, order—it does not arise out of this question.

SINDRI FERTILISER FACTORY

*4. **Shri Jnani Ram:** Will the Minister of **Works, Production and Supply** be pleased to state:

(a) the date on which the Sindri Fertiliser factory started work; and

(b) the quantity of fertilizer manufactured in the factory upto December 1951?

The Minister of Works, Production and Supply (Shri Gadgil): (a) Presumably, the hon. Member has in mind the date on which the factory went into production. It was on the midnight of 30th-31st October, 1951 that the first quantity of Ammonium Sulphate was produced in the factory.

(b) 7,445 tons.

Shri Jnani Ram: May I know when the factory will start production in full swing?

Shri Gadgil: It will be producing half the rated capacity by the middle of March and full capacity by the middle of the current year.

Shri Jnani Ram: May I know whether any quantity of the fertiliser that has been produced so far has been distributed?

Shri Gadgil: Whatever is produced is handed over to the Ministry of Food and Agriculture and it is their business to distribute it.

Dr. Deshmukh: May I know if the price at which the fertiliser would be available to the agriculturists has been worked out?

Shri Gadgil: I require notice for that, but presumably it has been worked out.

Shri Shiva Rao: Is there any proposal before my hon. friend for the establishment of a cement factory to utilise the waste products of the manufacture of fertiliser?

Shri Gadgil: I may inform my hon. friend that an agreement has been entered into with one of the cement companies under which the waste products will be taken over by that company for the production of cement.

Shri Deogirikar: May I know the basis on which the fertiliser will be distributed? Will it be province-wise?

Shri Gadgil: It will be distributed in terms of the needs of every province.

सेठ गोविन्द दास : इस फैक्टरी के उत्पादन का क्या लेखा है । कब तक वह हो जायगा ? और जिस जिस तरह उत्पादन बढ़ता जायगा क्या उस उस तरह जो आयात यहां पर होता है वह कम होता जायगा ?

[**Seth Govind Das:** What is the figure regarding the maximum production of this factory? When may it be expected to be achieved and, further, whether the imports of fertilisers will decrease in proportion to the increase in production here?]

श्री गाडगिल : मैं नहीं कह सकता । जैसा मैं ने अभी कहा कि पूर उत्पादन इस साल के जून महीने में होगा । पर मैं तो ऐसा समझता हूं कि इतना उत्पादन होने के बाद भी हिन्दुस्तान को कुछ न कुछ बाहर के देशों से मंगाना पड़ेगा ।

[**Shri Gadgil:** I am not in a position to give that information. As stated by me just now, the factory will go in full production with effect from the month of June this year. I think that

India will have to import some quantity from abroad in addition to the total production of that factory.]

Shri T. N. Singh: How does the price of the fertiliser now being produced by this factory compare with the price of imported ammonium sulphate?

Shri Gadgil: I require notice for that.

Shri A. C. Guha: Have Government tested the quality of the fertiliser produced by this factory? Is it on a par with imported fertilisers?

Shri Gadgil: I should say its quality is better than that of the imported fertiliser.

Shri T. Husain: How much money have Government spent so far on this factory?

Shri Gadgil: I am giving a rough figure. It is about Rs. 15 crores.

Shri B. Das: I want to ask a question about the management of the Sindri Corporation. Has the Government of India reached definite conclusions about the management of State Corporations, and is the Board of Directors of the Sindri Corporation an interim one pending a definite decision on the larger question?

Shri Gadgil: The present position is that a Company has been incorporated under the Joint Stock Companies Act and 99 per cent. of the shares are being held by the President of the Union and under the provisions of the Companies Act a Board of Directors has been constituted.

Shri Jnani Ram: Is the price of the fertiliser fixed on business basis or on public utility basis?

Shri Gadgil: Entirely on business lines.

خواجہ عنایت اللہ : کیا گورنمنٹ اس فرٹیلائزر ، استعمال کرنے کا پروپیگنڈا کاشتکاروں میں کر رہی ہے ؟

[**Khwaja Inait Ullah:** Is the Govenrment propagating the use of these fertilisers amongst the cultivators?]

श्री गाडगिल : प्रापेगन्डा तो होता है। पर प्रापेगन्डा करने का काम ज्यादातर फूड और एग्रीकल्चर मिनिस्ट्री का है। हमारा काम तो सप्लाई करने का है।

[**Shri Gadgil:** Propaganda is, of course, being done. Propaganda work is mainly the concern of the Ministry of Food and Agriculture. This Ministry is concerned with the supply only.]

Shri B. Das: With reference to the statement made by the hon. Minister about the Board of Directors of the Sindri Corporation, I find that he has not definitely answered the question I put to him as to whether the Government of India has reached definite conclusions about the management of State Corporations and whether the appointment of the Board of Directors is only an interim measure.

Shri Gadgil: The Government of India have come to certain conclusions about the management of State enterprises and the present arrangement is in consonance with those conclusions.

Shri B. Das: Is it only a conclusion about the Board being temporary and interim?

Mr. Speaker: Order, order. He has answered. Next Question.

Shri Jnani Ram: Question No.5, Sir.

The Deputy Minister of External Affairs (Dr. Keskar): There is a simelar Question, No. 12. If you don't mind, that also can be put together with this.

Dr. Tek Chand: Question No.12, Sir.

Mr. Speaker: Yes, he can answer both together.

Border Raids

*5. **Shri Jnani Ram:** Will the **Prime Minister** be pleased to state:

(a) the number of raids made by Pakistanis on Indian borders since October 1951; and

(b) the extent of loss of life and property?

The Deputy Minister of External Affairs (Dr. Keskar): (a) 79 including 8 across the cease-fire line in Jammu and Kashmir State.

(b) Four persons killed, 5 persons wounded and 8 persons kidnapped. The loss of property was as follows:

(i) Property of the value of Rs. 17,982/-.

(ii) 347 heads of cattle.

(iii) One maund of Jute and about 15 maunds of paddy.

(iv) 3 Rifles and 250 rounds of ammunition.

(v) Rs. 295/- in cash.

TRANS-BORDER RAIDS

*12. **Dr. Tek Chand:** Will the **Prime Minister** be pleased to state:

(a) the number of trans-border raids by Pakistanis on Indian territory committed from the 1st October, 1951 to the 15th January, 1952;

(b) how many of such raids were committed on places in—

(i) Punjab (I),

(ii) Jammu and Kashmir State,

(iii) Rajasthan,

(iv) Kutch,

(v) West Bengal,

(vi) Assam, and

(vii) Tripura;

(c) the reported loss of life caused by raiders in each State;

(d) the number of persons reported to have been kidnapped; and

(e) the reported loss of property in each State?

The Deputy Minister of External Affairs (Dr. Keskar): (a) 79 including those across the Jammu and Kashmir cease-fire line.

(b)
(i)	3
(ii)	8
(iii)	34
(iv)	nil
(v)	18
(vi)	16
(vii)	nil.

(c) Three persons were killed and four, including two women and a small girl, wounded in Jammu and Kashmir. One person was killed in Rajasthan and one person injured in West Bengal.

(d) Eight persons were kidnapped from West Bengal, some of them from Cooch-Behar enclaves surrounded by East Bengal territory.

(e) (i) Punjab (I)—68 heads of cattle valued at Rs. 17,480/-.

(ii) Jammu and Kashmir—3 rifles, 250 rounds of ammunitions, 17 heads of cattle, Rs. 295/- in cash, and ornaments, clothes and utensils worth approximately Rs. 2,000/-.

(iii) Rajasthan—118 heads of cattle valued at Rs. 21,976/-.

(iv) Kutch—Nil.

(v) West Bengal—144 heads of cattle, one maund of jute and more than 15 maunds of paddy.

(vi) Assam—Rs. 15,982/-.

(vii) Tripura—Nil.

Shri Jnani Ram: May I know how many of these raids were made by military personnel or officers of the Pakistan Army?

Dr. Keskar: All violations of the cease-fire line which are recorded and about which protests are made are made by military personnel. Those made by civilians are not considered as violations of the cease fire line. The raids to which I have referred on the borders of West Bengal and Assam are made by the Pakistan Police or the *Ansars*.

The Prime Minister (Shri Jawaharlal Nehru): May I just add a few words to what my colleague the Deputy Minister has said? I do not think it is quite correct to say that raids are made by the Police or *Ansars*. There are also raids by smugglers, thieves and dacoits, sometimes aided by *Ansars* and sometimes by themselves. These border territories are a sanctuary and a place where smuggling and other activities can be carried on quite easily. They cross over from this side and take over cattle and the like. So, it is a little difficult to be definite and say as to who makes the raids. Of course, in individual cases you can be definite about it.

Shri Jnani Ram: May I know if the Government of India have claimed any compensation for the losses during these raids and if so, what is the amount involved?

Dr. Keskar: There is an agreement with the Pakistan Government regarding the question of violation of our territories on the West Bengal and Assam border. According to that agreement, all these cases are referred to the authorities on both sides who come together and try to find out the culprits and the question of compensation also is discussed by these authorities.

Shri Gautam: Have any of these raiders been arrested on Indian soil and if so, what steps have Government taken in regard to them?

Dr. Keskar: I have not got figures about raiders who have been arrested on Indian soil.

Shri Syamnandan Sahaya: Has any information been received of any raids from our side on the Pakistan soil, or is it only one-way traffic?

Dr. Keskar: The Pakistan Government have made complaints regarding raids by people from the Indian side, but their number is very very small. I will not be able to give it off-hand.

Shri Kamath: As a result of these raids from Pakistan, was any Indian territory occupied by Pakistan personnel and if so, does that territory continue today to be in possession of Pakistan?

Dr. Keskar: Not in any of the incidents referred to since October 1950. Probably the hon. Member is referring to incidents which occurred before October 1950. This question relates to what occurred after October 1950.

Shri A. C. Guha: Have there been any cases where armed forces of Pakistan and armed forces of India exchanged fire or came to clashes in West Bengal and Assam?

Dr. Keskar: There have been one or two cases.

Shri A. C. Guha: Were there any casualties in these clashes?

Dr. Keskar: I am not in a position to say whether the casualties referred to here are on account of these firings.

Shri R. K. Chaudhuri: When the armed forces of two countries are fighting, does it not amount to hostility between the two countries?

Mr. Speaker: Order, order.

Shri R. K. Chaudhuri: Is it not treated.....

Mr. Speaker: The hon. Member is asking for opinion.

Shri R. K. Chaudhuri: May I put it this way? Do the Government of India treat this as an act of hostility or not?

Shri Jawaharlal Nehru: No, Sir. If a few policemen fight, it does not become a war between nations.

Shri T. Husain: In answer to a question of Shri Jnani Ram, the hon. the Deputy Minister said that there is an agreement between Pakistan and India with regard to Bengal and Assam. I want to know whether there is an agreement between these two countries with regard to Punjab, Kashmir and Jammu, Rajasthan, Kutch and Tripura?

Dr. Keskar: No, Sir. There is no such special agreement. With regard to Kashmir there is a Cease-Fire Agreement. With regard to the other areas there is no agreement, because no such agreement was thought necessary.

Shri T. Husain: May I know what happens if there is a raid in those areas? In case there is an agreement, in the event of a raid, they can meet and discuss and come to some decision over the question of compensation etc. What happens if there is no agreement and there are raids?

Dr. Keskar: The first thing that is done is that the authorities on this side try to contact the authorities on the other side to find out why the raid has taken place and the incident is referred to the Pakistan Government.

Shri T. Husain: May I know why there is no agreement?

Mr. Speaker: We are entering into an argument.

MIGRATION

*6. **Maulvi Wajed Ali:** Will the **Prime Minister** be pleased to lay on the Table of the House a statement showing:

(a) the total number of Hindus coming to West Bengal and Assam from January 1950 to 31st December, 1951, from East Pakistan;

(b) the total number of Hindus from West Bengal and Assam who have so far returned to East Pakistan during the same period;

(c) the total number of Muslims who left Assam during disturbances in February and March, 1950; and

(d) the total number of those Muslims who have come back to Assam from East Bengal up till 31st December, 1951 and the number of such persons who have been rehabilitated in Assam so far?

The Deputy Minister of External Affairs (Dr. Keskar): A statement giving the available information is laid on the Table of the House. [*See* Appendix I, annexure No. 1.]

USE OF GOVERNMENT AEROPLANES BY CONGRESS PRESIDENT

*7. **Shri Kshudiram Mahata:** Will the **Prime Minister** be pleased to state:

(a) whether it is a fact that the Congress President used Government aeroplanes during the last General Election for election campaign;

(b) if the answer to part (a) above be in the affirmative, the total cost incurred for such use including pay,

allowances of staff, the running cost of the aeroplanes, depreciation charges and interest on capital cost;

(c) the total mileage of flights undertaken; and

(d) the amount paid by the Congress President for such use?

The Prime Minister (Shri Jawaharlal Nehru): (a) and (b). Normally the Prime Minister travels by air in one of the aircraft of the Air Headquarters Communications Squadron. Apart from the saving in time, various other considerations make this usually a simpler and less expensive method of travel for him. The Communications Squadron consists of four Dakotas and two Devons, apart from the operational flights and the communication flights. According to existing rules, the President, the Prime Minister, the Defence Minister and the three Service Chiefs are authorized to make use of these planes for their travels. No payment is made for these journeys by air because each aircraft, for technical reasons, has in any event to do 40 hours flight per month, for which provision exists in the Defence budget.

The question of using the I.A.F. aircraft for Prime Minister's travels, in his capacity as President of the Indian National Congress was considered in October last year. Travelling by any other means involved a number of difficulties under the existing rules pertaining to the Prime Minister's journeys. An official committee was appointed to consider the question and the comptroller and Auditor-General of India was consulted before a decision was taken. Thereafter, the Government issued a Press Note on the subject on 20th October, 1951. A copy of this Press Note is placed on the Table of the House. [*See* Appendix I, annexure No. 2.]

The Comptroller and Auditor-General informed Government that it would be proper for the Prime Minister and his party members to pay ordinary air-travel charges whenever these journeys were undertaken.

(c) 18,056 miles.

(d) Rs. 14,595-4-0.

Shri Kamath: Is it not a fact, Sir, that in some of these election flights of the Congress President *cum* Prime Minister some non-entitled persons travelled in these I.A.F. planes? If so, who were those non-entitled persons and how much expenditure was incurred in connection with the travel of those non-entitled persons who travelled with the Congress President *cum* Prime Minister?

Shri Jawaharlal Nehru: Whenever such a thing happened, they paid for it. I cannot give the exact figure which each individual paid: but they paid or somebody paid.

Shri Kamath: Is it also a fact, Sir, that in several provinces or States, special trains were also arranged, not merely for the Congress President, but also for some persons who travelled with the Congress President?

Shri Jawaharlal Nehru: Those special trains were entirely arranged by the local Congress authorities—it had nothing to do with Government. They paid the entire sum for it.

Shri Amolakh Chand: May I know, Sir, if the Congress President, who happens to be the Prime Minister of India, has any option but to travel by I.A.F. planes on his air journeys?

Shri Jawaharlal Nehru: In answer to this question, I stated that there are certain difficulties. I do not know about the option, but the Prime Minister's views are not always taken into account in certain matters relating to travel, security, etc. He is supposed to submit to the general rules laid down and among them is that he is not normally supposed to travel in service (commercial) planes, because the actual arrangements to be made in service (commercial) planes when he travels ultimately become more expensive than if he travels otherwise.

Shri Kamath: Is the Prime Minister aware, Sir, that in some States, the Chief Minister and some other Ministers disregarded the directions of the Prime Minister and mixed up their official tours with election tours?

Mr. Speaker: I really do not know how that question arises.

Shri Kamath: Have the Chief Ministers also travelled in planes without paying for their journeys?

Mr. Speaker: Order, order.

Haj Pilgrimage (1951)

*8. **Maulvi Wajed Ali**: Will the **Prime Minister** be pleased to state:

(a) the total number of Indian pilgrims who went to Hejaz during the *Haj* season in the year 1951;

(b) whether it is a fact that some three thousand Indian pilgrims died during the said *Haj* of 1951; and

(c) whether the relatives of the deceased pilgrims have been informed and steps taken to return their belongings to their heirs and relatives?

The Parliamentary Secretary to the Prime Minister (Shri Satish Chandra): (a) 11,357.

(b) So far we have information about the death of 81 Indian pilgrims. Information about the death of other pilgrims, if any, is still awaited from Saudi Arabia.

(c) The relatives of these 81 pilgrims have been informed about their death and steps have been taken to return their belongings to their heirs and relatives.

Maulvi Wajed Ali: Have Government ascertained the reasons for the death of these pilgrims from the Government of Saudi Arabia?

Shri Satish Chandra: Most of these deaths were due to heat-wave and a few probably to heart failures.

Maulvi Wajed Ali: May I know the number of pilgrims who have returned so far?

Shri Satish Chandra: Most of the pilgrims must have returned as this relates to last year's *Haj* season.

Cotton Piece Goods (Imports)

*9. **Shri Jagannath Das:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the general policy adopted for imports of cotton piece goods of special variety from England in the years 1950, 1951 and 1952;

(b) whether any licences were granted in the year 1950-51 for such imports and if so, to how many firms and for what amount; and

(c) whether it is a fact that India section of the Manchester Chamber of Commerce has called on the Government of India for reciprocity of treatment in the cotton trade and if so, what policy the Government would like to adopt in this matter?

The Minister of Commerce and Industry (Shri Mahtab): (a) During January, 1950 to June, 1952 licences were issued for importing umbrella cloth only from soft Currency countries including England. Some Licences for the import of other kinds of cottón piecegoods were also issued under O.G.L. XV Concessional Schemes in respect of commitments already made prior to the removal of these items from the O.G.L. on the 27th July 1949.

(b) A statement is laid on the Table of the House. [*See* Appendix I, annexure No. 3.]

(c) The Government of India have not received any such request.

Watches and Clocks (Imports)

*10. **Shri Jagannath Das:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the amount for which imports of watches and clocks were allowed for the year 1951-52;

(b) how much of the total imports of watches and clocks for 1950-51 and 1951-52 was given to established importers and new-comers separately; and

(c) what is the present policy for granting import licences to persons having sole agencies of foreign firms for watches and clocks?

The Minister of Commerce and Industry (Shri Mahtab): (a) and (b). Licences are granted on half-yearly basis. During the past two years the following licences were granted to Established Importers only:

January-June 1950	..Rs.	3·61	Lakhs
July-December 1950	..Rs.	205·45	Lakhs
Total	Rs.	209·06	Lakhs
January-June 1951	..Rs.	88·37	Lakhs
July-December 1951	..Rs.	87·56	Lakhs
Total	Rs.	175·93	Lakhs

No licences were issued to Newcomers.

(c) Sole agents of foreign firms are not granted import licences for consumer goods under which category the items in question fall.

Shri Amolakh Chand: May I know if it is a fact that clocks are being manufactured in India in some States?

Shri Mahtab: Yes, that is a fact.

Shri Amolakh Chand: May I know the names of the States?

Shri Mahtab: The following firms in India are manufacturing clocks:

The Swadeshi Electric Clock Manufacturing Company, Bombay.

Messrs. Time Instruments (India) Limited, Bombay.

Messrs. Dutex Clock Company, Calcutta.

Messrs. Scientific Clock Manufacturing Company Limited, Morvi.

Shri Amolakh Chand: May I know if it is not a fact that these companies are not faring well, for the very simple reason that foreign clocks are being imported?

Shri Mahtab: As a matter of fact, on receiving a representation from these firms the import of clocks has been restricted.

Shri R. Velayudhan: May I know whether there are any separate figures available regarding the imports of watches from dollar and sterling areas?

Shri Mahtab: I require notice for that question.

Shri M. Naik: May I know why licences for import of clocks have not been granted to new-comers?

Shri Mahtab: Usually the import policy is announced in the beginning of each half year. In many commodities new-comers are allowed to import and in others they are not allowed. Various considerations are taken whenever these decisions are made.

Shri A. C. Guha: Is it not the policy of Government to allow twentyfive percent to new-comers and, if so, may I know why a deviation has been made in this case?

Shri Mahtab: That is not the general rule. In some commodities new-comers are allowed and in some they are not allowed. We have to keep a balance between the existing trade and the new-comers.

Shri Jnani Ram: May I know the number of clocks manufactured by Indian firms in 1951-52?

Shri Mahtab: I have not got those figures ready at hand.

Shri Kamath: So far as use in Government Ministries and Offices is concerned, do Government patronize the use of indigenous or foreign clocks?

Shri Mahtab: That I cannot say, because my Ministry is not the only Ministry which purchases clocks.

Shri Kamath: Does that not mean putting the clock back so far as this industry is concerned?

Mr. Speaker: Order, order.

Shri R. K. Chaudhuri: Is it not a fact that as a result of the policy pursued by the Government those who had not imported before Independence are absolutely denied the opportunity now?

Shri Mahtab: The hon. Member knows that that problem exists not only with regard to clocks but with regard to various other commodities. And that is a question which is very much under consideration as to how to correct that situation if it is considered wrong.

Shri Jhunjhunwala: What is the percentage of clock imports allowed to new-comers?

Shri Mahtab: I have said that new-comers are not allowed; only established importers are allowed to import.

Shri Gautam: Have the Government been able to devise any method by which old importers do not come forward as new-comers, with new names?

Shri Mahtab: I do not know how this arises. In this particular case, as I have said, new-comers are not allowed to import.

Import and Export Licences

***11. Shri Jagannath Das:** Will the **Minister of Commerce and Industry** be pleased to state:

(a) what is the total number of import and export licences granted respectively during the period beginning from 1st July to end of December 1951;

(b) the maximum and minimum amount for which import and export licences were granted to any individual or firms during the period; and

(c) whetner any cases pertaining to the year 1951 are still pending decision and if so, how many?

The Minister of Commerce and Industry (Shri Mahtab): (a) During the period in question 109·972 import licences and 40,211 export licences were granted.

(b) The maximum and minimum amounts for which import licences were granted were Rs. 174·46 lakhs and Rs. 16 respectively. On export side the amounts were Rs. 42·55 lakhs and Rs. 5 respectively.

(c) Yes Sir. 544 applications on Imports side and 551 on Exports side are pending.

Shri Jagannath Das: May I know when Government are going to finalize consideration of the pending applications?

Shri Mahtab: I made an investigation. Most of these applications are pending because the applicants

have not supplied full particulars as required under the rules. As soon as they do that I think the consideration of these applications will be finished as quickly as possible.

Shri A. C. Guha: May I know how many of these applications have been disposed of by the officers at the ports and how many by the Central office?

Shri Mahtab: I cannot give the figures off-hand. As the hon. Member knows, we issued a press note some time back saying as to what category of applications would be disposed of by the port officers and what by the Central office.

Shri T. N. Singh: May I know the name of the concern to which the import licence for Rs. 174 lakhs was granted?

Shri Mahtab: Surat Weavers Company, for art silk.

Shri T. N. Singh: May I know if Government themselves have imported any large amounts and what the largest figure of imports made on Government account is?

Shri Mahtab: Government do not import trade commodities. Government import capital goods for their various projects, which are not included here. And for that they do not obtain import licences from the Government themselves. These relate to trade commodities and, as I have said, Surat Weavers Company was given the maximum licence for importing art silk.

Shri M. Naik: May I know how many of these imports and exports refer to new-comers?

Shri Mahtab: I require notice for that question.

Shri Massey: With regard to the answer to part (b) of the question, may I know the number of licences granted to firms and individuals separately?

Shri Mahtab: I am sorry those figures are not readily available with me now.

Shri A. C. Guha: May I know the number of those licences according to the three categories *viz.* actual users, established importers and new-comers?

Shri Mahtab: I have not got those figures. If a separate question is put I shall give the information.

Shri B. R. Bhagat: May I know whether, and how, any scheme of priority is determined in regard to these import licences?

Shri Mahtab: According to the present Import Policy there is no question of priority. We have made the rules in such a way that that difficulty will not arise. There is nobody to judge to whom priority will be given. The applicants must be entitled under the rules for import licences, and if they are entitled they will get the licences.

Evacuee Property

*13. **Dr. Tek Chand:** Will the Minister of **Rehabilitation** be pleased to lay on the Table a statement showing:

(a) (i) the total amount of rent of urban immovable "evacuee property" realised in each State from the 1st August, 1947 to 31st of December, 1951; and

(ii) the arrears of such rent still realisable;

(b) (i) the total expenditure incurred each year against these realisations;

(ii) the amount spent on repairs and improvements of the properties concerned;

(iii) the amount given by way of maintenance to displaced persons from West Pakistan each year; and

(iv) the other main heads of such expenditure; and

(c) (i) the balance in hand on the 31st of December, 1951;

(ii) whether the whole of this balance is in deposit—

(1) with the Government of India, or

(2) a part of it is with various States, and

(iii) if the answer to part (c)(ii) (2) above be in the affirmative, the names of the States and the amount with each State Government on the 31st of December, 1951?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) to (c). The information is not readily available and is being collected.

Dr. Tek Chand: Is it likely to be collected in this session or is the hon. Minister waiting for the new Parliament to assemble for completing the collection of the information?

Shri A. P. Jain: Every effort will be made to collect it as soon as possible.

Shri Kamath: Is it a fact that the rent on some of the urban immovable evacuee property has been remitted to persons in West Pakistan whereas the West Pakistan Government has not sent any rent of such property in West Pakistan to displaced persons in India?

Shri A. P. Jain: No rent has been remitted to West Pakistan at least to my knowledge.

Shri A. C. Guha: Are we to understand that no rent has been paid to any individual Muslim evacuee in West Pakistan?

Shri A. P. Jain: That is exactly what I have said.

Shri A. C. Guha: Have there been any negotiations with the Pakistan Government with regard to the rent that is being realized or that is to be realized from properties left in West Pakistan?

Shri A. P. Jain: Plenty of negotiations, but with no result.

Shri Kamath: With no result? Very unfortunate.

Shri R. K. Chaudhuri: Do I understand that the Government is unaware of the fact that a large amount of rent collected in India was sent to the late Mr. Liaquat Ali Khan?

Shri A. P. Jain: Not by the governmental agency, so far as I know.

Shri R. K. Chaudhuri: Is the Government aware of it? Has the amount been sent with the knowledge and consent of the Government?

Shri A. P. Jain: Not to my knowledge.

Shri Kamath: Is the Pakistan High Commissioner in India...

Shri R. K. Chaudhuri: Sir, I am not speaking about his personal knowledge. I am asking whether the Government is aware of it.

Shri A. P. Jain: I am speaking as a Minister.

Mr. Speaker: We will go to the next question.

COTTON (IMPORT)

*14. **Shri B. K. Das:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the total quantity of cotton imported from different countries during the period 1st August to 31st December 1951?

(b) the average prices of different varieties of cotton so imported; and

(c) the quantities of the imported cotton used in mills for yarn and cloth, separately?

The Minister of Commerce and Industry (Shri Mahtab): (a) and (b). A statement is laid on the Table of the House.

(c) The information is not available as no separate statistics are kept for cloth and yarn produced from the imported cotton separately.

STATEMENT

(a) 325,587 bales of 400 lbs. each.

(b) The average prices per bale are as follows :—

	Rs.	As.	P.
East Africa ..	1072	0	0
Egypt ..	1733	0	0
U.S.A. ..	913	0	0
Sudan ..	1591	0	0
Others ..	1187	0	0

Shri B. K. Das: May I know on what basis the quantities to be imported from different countries are fixed?

Shri Mahtab: I can give you a rough idea. We know how much cotton the mills require here for their full working and we deduct the amount of cotton which will be available from indigenous sources and then the remaining we make an attempt to import from abroad.

Shri B. K. Das: My point is that from the statement I find that the price of the Egyptian cotton is the maximum and the price of U.S.A. cotton is the minimum and I want to know how the quantities to be imported from different countries are determined?

Shri Mahtab: The import is made according to the availability of cotton from various countries. If the full amount of cotton is available from the U.S.A., we will not go in for Egyptian cotton. If the amount is not available from one country, we have to find out from several other countries.

Shri B. K. Das: What is the maximum ruling price of Indian cotton per bale?

Shri Mahtab: It is a controlled price. The average price is Rs. 850 per candy.

Shri Rudrappa: Owing to shortage of cotton, may I know if any mills did not work to full capacity during 1950-51?

Shri Mahtab: There was the difficulty of availability of cotton and that has been removed. At present there is no difficulty whatsoever.

Shri Rudrappa: When was the order given for the import of cotton during this period?

Shri Mahtab: The import is made as soon as the availability of cotton is announced by the different countries and the import is made by the industrialists themselves; it is not done on Government account.

Shri Rudrappa: But the Import License Order was given in advance?

Shri Mahtab: The license import Order was given in advance to enable the industry to import cotton at the cheapest price.

Shri B. K. Das: May I know if any import quantity for 1952 has been fixed?

Shri Mahtab: That has been fixed and a deputation is now in the U.K. to negotiate with foreign countries and already the industry and trade have been permitted to import as they require.

Shri B. K. Das: What is the total quantity to be imported?

Shri Mahtab: I cannot say offhand, but so far as I remember it is about 4 lakh bales.

Shri Jhunjhunwala: May I know if in issuing licenses, it is left to the option of the industrialists to import from any country they like or if they wish to import from any country not mentioned in the license, they have to take fresh permission from the Government?

Shri Mahtab: As soon as the availability of cotton is known the import is made in consultation with the Ministry. Our Textile Commissioner holds consultations with the industry and the import licenses are issued accordingly.

Shri Jnani Ram: Is the supply of cotton from some countries conditional on the supply of cloth from India?

Shri Mahtab: I do not think so.

WRITTEN ANSWERS TO QUESTIONS

Form of Credentials

1. Shri Raj Kanwar: Will the **Prime Minister** be pleased to lay on the Table of the House a copy of the standard form of credentials given to an Ambassador for presentation to the Head of the foreign country or State where he is accredited on behalf of India?

The Deputy Minister of External Affairs (Dr. Keskar): A copy of the standard form of Letter of Credence for an Ambassador is placed on the Table of the House. [*See* Appendix I, annexure No. 4.]

Petrol

2. Maulvi Wajed Ali: Will the Minister of **Works, Production and Supply** be pleased to state:

(a) the present price of petrol in the State of Assam and in Calcutta, Delhi and Bombay;

(b) the Central Excise duty on petrol; and

(c) whether the company can increase the sale price of petrol without reference to the Government of India?

The Minister of Works, Production and Supply (Shri Gadgil): (a) The selling prices of Motor Spirit are as follows:

	(Per Gallon) Rs.	As.	P.
Assam (Digboi and Tinsukia) ..	3	0	6
Calcutta ..	2	5	6
Delhi ..	2	11	6
Bombay ..	2	4	0

(b) and (c). The Central Excise Duty on Motor Spirit is As. 15-9 per gallon. There is no statutory or other control on patrol prices. The Assam Oil Company follow the prices fixed by the Burmah Shell Organisation, who, by convention, consult Government before making any price alterations

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

VOLUME I, 1952

(5th February, 1952 to 29th February, 1952)

Fifth Session

of the

PARLIAMENT OF INDIA

1952

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CORRIGENDA

to

the Parliamentary Debates (Part II—Other than Questions and Answers), Fifth Session, 1952

In Volume I,—

1. No. 2, dated the 6th February, 1952,—

   (i) Col. 23, line 33 *for* "to provide for" *read* "further to amend", and in line 2 from bottom *for* "further to amend" *read* "to provide for".

2. No. 5, dated the 12th February, 1952,—

   (i) Col. 309, *for* existing last line *read* "chancellories or in government, but"

   (ii) Col. 362, line 31 *for* **"Kamth"** *read* **"Kamath".**

3. No. 6, dated the 13th February, 1952,—

(i) भाग ३९१, पंक्ति १५ में "एम जुनही" के स्थान पर "जुल्म नहीं" पढ़ें ।

(ii) भाग ३९२, पंक्ति २५ में "वतक" के स्थान पर "वक्त" पढ़ें ।

   (iii) Col. 443, line 8 *for* "ony" *read* "only".

(iv) کالم ۴۷۲ آخری لائن کے شروع میں ۵۰ ملی ہیں ان کے متعلق ۵۰ پڑھیں —

   (v) Col. 529, *for* existing last line *read* "excess of such moisture as may reasonably be expected, by watering the".

   (vi) Col. 530, *insert* "both parties are protected. They pro-" as last line.

4. No. 8, dated the 15th February, 1952,—

   (i) Col. 648, *after* line 7, *insert* "this demand has come before the House today, that".

   (ii) Col. 658, line 32 *for* "OUTLAY" *read* "OUTSIDE".

   (iii) Col. 659, line 6 from bottom *for* **"Jagivan Ram"** *read* **"Jagjivan Ram"**

   (iv) Col. 676, last line *for* "liament" *read* "Parliament".

   (v) Col. 686, line 16 from bottom *for* **"Gapalaswami"** *read* **"Gopalaswami".**

5. No. 9, dated the 18th February, 1952,—

(i) भाग ८०३, नीचे से पंक्ति ४ में "जचित राम" के स्थान पर "अचित राम" पढ़ें ।

6. No. 11, dated the 20th February, 1952,—

(i) भाग १००७, पंक्ति ९ को "की जरूरत है" पढ़ें ।

7. No. 14, dated the 23rd February, 1952,—

   (i) Col. 1184, line 8 *for* **"Jagivan Ram"** *read* **"Jagjivan Ram".**

   (ii) Col. 1191, *for* existing line 4 *read* **"Clause 6** —*Contributions and matters*".

(iii) भाग १२२७, पंक्ति १० में "यत्य" के स्थान पर "खत्म" पढ़ें ।

8. No. 15, dated the 25th February, 1952,—

(i) भाग १२५४, पंक्ति २४ में "रती" के स्थान पर "तीर" पढ़ें ।

9. No. 19, dated the 29th February, 1952,—

   (i) Col. 1564, in the beginning of line 17 from bottom *insert* "voted".

   (ii) Col. 1612, line 3 from bottom *for* "purpose" *read* "propose".

(iii) भाग १६२४, पंक्ति '५ में "खउन" के स्थान पर "उस ने" पढ़ें ।

THE

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

PARLIAMENT OF INDIA

Wednesday, 6th February, 1952

The House met at a Quarter to Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

11-30 A.M.

DEATHS OF SHRI DESHBANDHU GUPTA, THAKUR LAL SINGH, DURBAR GOPALDAS DESAI AND SHRI MANIK LAL GUPTA.

Mr. Speaker: I have to inform the House of the very sad demise of four of our friends namely, Shri Deshbandhu Gupta, Thakur Lal Singh, Durbar Gopaldas Desai and Shri Manik Lal Gupta.

Shri Deshbandhu Gupta died in very tragic circumstances in a plane crash near Dum Dum Air Port on the 21st November, 1951, on his way to Calcutta to attend a session of the All-India Newspaper Editors' Conference of which he was the President. He joined the Congress Non-co-operation movement in 1921 and later became a staunch Congressman and took active part in all Congress movements. He was a member of the Punjab Legislative Assembly from 1937 to 1945 and was also a member of the old Central Assembly and the Constituent Assembly. He was an active Member of Parliament until his death. His death removes from us a very familiar figure.

Thakur Lal Singh also died in tragic circumstances. He was contesting a seat in the House of the People from Bhopal and on 4th December, 1951, was proceeding to file his nomination paper when his jeep met with an accident. He was a leading Congressman of Bhopal who led the merger movement in Bhopal State in 1948-49. He was elected to the Constituent Assembly in 1949 and was also a Member of Parliament.

Durbar Gopaldas Desai died on the 5th December, 1951 following a heart attack. He was my colleague in Congress work since 1921 and also my companion in jails during the different campaigns by the Congress. He had rare qualities of courage, sacrifice, character and spirit of service. He was the first from the princely order to join the Congress. He was the President of the Kaira District Congress Committee and later of the Saurashtra Congress. He suffered long terms of imprisonment several times during the periods of Congress movements from 1930 to 1944. He was elected to the Constituent Assembly in April, 1947.

Shri Manik Lal Gupta was brutally murdered on the 29th December, 1951, while sleeping in the verandah of his country house. He was a youngman of 36 years and was a promising member of the Hyderabad Legislative Assembly from which he resigned, demanding accession of Hyderabad to the Indian Union. He was elected to Parliament in 1950.

We mourn the loss of these friends and I am sure the House will join me in conveying our condolences to their families. The House may stand in silence for two minutes to express its sorrow.

MOTION FOR ADJOURNMENT

RELEASE OF DETENUS ELECTED TO LEGISLATURES

Mr. Speaker: I have received notice of an adjournment motion from the hon. Member Mr. Kamath. The matter that he wishes to raise is, as alleged by him, one of urgent public importance. It is the failure of Government to order the release of such detenus and to direct the withdrawal of warrants against such persons underground as have been recently declared elected to the various Legislatures in India.

May I know whether there is any detenu under the orders of the Central Government?

The Minister of Home Affairs and Law (Dr. Katju): There is no detenu under the detention orders of the Central Government.

Mr. Speaker: That was my impression because there was some reply to that effect to some question previously and I wanted to make sure.

Shri Kamath (Madhya Pradesh): There are warrants pending.

Mr. Speaker: But this related mostly to the State Governments. There is another objection also to this notice, namely, a question on this matter has been tabled by Mr. Joseph, which is coming in for answer on the 8th instant. (*Shri Kamath*: But that is no bar to this adjournment motion.) We may have the information then. I should like to know if there are any warrants pending as he wants to know that also...

Shri Kamath: Also the policy of the Government.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): It is rather difficult to give precise information, Sir, and, if I may draw your attention to the fact, there is a question coming day after tomorrow on the very same subject. But, speaking from memory, I do not think that at the present moment there is a single case of detention of the person who has been elected. There are cases of those persons being on parole; but they are not actually detained. No doubt, their cases will be considered. As for warrants, it is possible that there may be some persons who are not traceable...

Shri Kamath: Warrants withdrawn?

Shri Jawaharlal Nehru: Some may have been withdrawn. There are some cases in which there are possibly some charges of a criminal nature involved; so that, each case has to be examined separately.

Shri Kamath: Is it the policy...

Mr. Speaker: Order, order. A question of policy cannot be raised on an adjournment motion in that manner. I am not inclined to give my consent to the adjournment motion. Matters will be further clarified by the question and supplementary questions on the 8th. The hon. Member will also have an apportunity of raising this question on the motion on President's Address.

RESIGNATIONS OF MEMBERS

Mr. Speaker: I have to inform the hon. Members that the following Members have resigned their seats in Parliament with effect from the dates mentioned against their names:

(1) Dr. H. C. Mookerjee (1-11-51)
(2) Shri K. C. Neogy (30-11-51)
(3) Shri S. R. Naidu (23-1-52)
(4) Shri V. Nadimuthu Pillai (30-1-52)
(5) Prof. N. G. Ranga (1-2-52)
(6) Shri T. M. Kaliyannan (2-2-52)

LEAVE OF ABSENCE FROM THE HOUSE

Mr. Speaker: Before the House proceeds with any other business, I would like to inform hon. Members that Rev. Jerome D'Souza, S.J., has requested for leave of absence from all the meetings of Parliament during this session, under article 101(4) of the Constitution on the ground that he is attending the session of the General Assembly of the U.N.O. as a delegate and is undertaking a lecture tour of the Continent.

Is it the pleasure of the House to grant him leave?

Leave was granted.

PRESIDENT'S ASSENT TO BILLS

Secretary: I beg to lay on the Table a statement showing the Bills which were passed by Parliament during the Fourth Session, 1951, and assented to by the President. [*See* Appendix I, annexure No. 5].

PAPERS LAID ON THE TABLE

REPORT OF INDIAN DELEGATION TO 13TH SESSION OF U.N.E. & S. COUNCIL

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I beg to lay on the Table a copy of the Report of the Indian Delegation to the Thirteenth Session of the United Nations' Economic and Social Council held at Geneva in July, 1951. [*Placed in Library. See* No. IV G.O(43)].

SUMMARY OF PROCEEDINGS OF TENTH SESSION OF INDIAN LABOUR CONFERENCE

The Minister of Labour (Shri Jagjivan Ram): I beg to lay on the Table a copy of the Summary of Proceedings of the Tenth Session of the Indian Labour Conference held at New Delhi in March 1950. [*Placed in Library. See* No. IV. R.O(38).]

PRESIDENT'S ACTS *re* PUNJAB

The Minister of Home Affairs and Law (Dr. Katju): I beg to lay on the Table a copy of each of the following Acts enacted by the President, under sub-section (3) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951:

(i) The Punjab Security of the State (Amendment) Act, 1951 (President's Act No. III of 1951);

(ii) The East Punjab Tractor Cultivation (Recovery of Charges) Amendment Act, 1951 (President's Act No. IV of 1951);

(iii) The Punjab Tenants (Security of Tenure) Amendment Act, 1951 (President's Act No. V of 1951);

(iv) The Punjab District Boards (Amendment) Act, 1951 (President's Act No. VI of 1951);

(v) The Punjab Small Towns (Amendment) Act, 1951 (President's Act No. VII of 1951);

(vi) The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951 (President's Act No. VIII of 1951);

(vii) The Punjab Abolition of Ala Malikiyat and Talukdari Rights Act, 1951 (President's Act No. IX of 1951);

(viii) The East Punjab War Awards (Amendment) Act, 1952 (President's Act No. I of 1952);

(ix) The Punjab Cotton (Prevention of Adulteration) Act, 1952 (President's Act No. II of 1952); and

(x) The Punjab Betterment Charges and Acreage Rates Act, 1952 (President's Act No. III of 1952).

[*Placed in Library, See* Nos. P-243/52 to P-252/52].

ORDINANCES PROMULGATED AFTER FOURTH SESSION

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to lay on the Table a statement showing the Ordinances promulgated after the termination of the Fourth Session of Parliament and before the commencement of the Fifth Session of Parliament. [*See* Appendix I, annexure No. 6.]

PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS BILL.

The Minister of Home Affairs and Law (Dr. Katju): I beg to introduce the Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India.

INDIAN INDEPENDENCE PAKISTAN COURTS (PENDING PROCEEDINGS) BILL.

The Minister of Home Affairs and Law (Dr. Katju): I beg to move for leave to introduce a Bill to render ineffective certain decrees and orders passed by courts in Pakistan against a Government in India and to provide an alternative remedy to persons who have secured such decrees or orders

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to render ineffective certain decrees and orders passed by courts in Pakistan against a Government in India and to provide an alternative remedy to persons who have secured such decrees or orders."

The motion was adopted.

Dr. Katju: I introduce the Bill

Shri Kamath (Madhya Pradesh): On a point of order, Sir, With regard to item one, there was no motion for leave to introduce the Bill.

Mr. Speaker: The hon. Member, if he reads the rules, will find that in cases where Bills are published in the Gazette, no leave is necessary. This Bill. I believe, is published.

PREVENTION OF CORRUPTION (AMENDMENT) BILL

The Minister of Home Affairs and Law (Dr. Katju): I beg to move for leave to introduce a Bill further to amend the Prevention of Corruption Act, 1947.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Prevention of Corruption Act, 1947."

The motion was adopted.

Dr. Katju: I introduce the Bill.

DELHI UNIVERSITY (AMENDMENT) BILL

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move for leave to introduce a Bill further to amend the Delhi University Act, 1922.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the Delhi University Act, 1922."

The motion was adopted.

Shri Satya Narayan Sinha: I introduce the Bill.

UTTAR PRADESH CANTONMENTS (CONTROL OF RENT AND EVICTION) BILL

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move for leave to introduce a Bill to provide for the control of rent of house accommodation in cantonments in Uttar Pradesh and to prevent the eviction of tenants therefrom.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the control of rent of house accommodation in cantonments in Uttar Pradesh and to prevent the eviction of tenants therefrom."

The motion was adopted.

Shri Satya Narayan Sinha: I introduce the Bill.

RESOLUTION *RE* CONTINUANCE OF PRESIDENT'S PROCLAMATION *RE* PUNJAB

The Minister of Home Affairs and Law (Dr. Katju): I beg to move:

"That this House approves the continuance in force of the Proclamation issued by the President on the 20th June, 1951, under article 356 of the Constitution assuming to himself all the functions of the Government of Punjab and approved by Parliament by a resolution passed on the 9th day of August, 1951."

It is necessary for me to move this resolution because under article 350 the approval of the House only lasts for six months and therefore it would expire on the 8th of February. Otherwise, it was really not necessary to take up the time of the House on this matter. The elections have been held and I imagine that in a few days, they will be complete so far as the Legislative Assembly is concerned. Inasmuch as Punjab has got a bicameral Legislature, probably, it will take a few weeks for the constitution of the Punjab Legislative Council. Thereupon, we may have the happy day of the restoration of the constitutional machinery in the Punjab. That will take I suppose, at the outside about six or seven weeks. In the meanwhile, Government has to be carried on and I imagine also that the House will agree with me that the President's order should continue. I do not think it necessary to take up the time of the House any further.

Mr. Speaker: The question is:

"That this House approves the continuance in force of the Proclamation issued by the President on the 20th June, 1951, under article 356 of the Constitution assuming to himself all the functions of the Government of Punjab and approved by Parliament by a resolution passed on the 9th day of August, 1951."

The motion was adopted.

INDIAN INDEPENDENCE PAKISTAN COURTS (PENDING PROCEEDINGS) BILL

The Minister of Home Affairs and Law (Dr. Katju): I beg to move:

> "That the Bill to render ineffective certain decrees and orders passed by courts in Pakistan against a Government in India and to provide an alternative remedy to persons who have secured such decrees or orders, be taken into consideration."

Hon. Members, I suppose, have had time to peruse this Bill. The reason why it has become necessary to introduce it is clearly set out in the Statement of Objects and Reasons. The matter was of such an emergent nature that an Ordinance had to be issued and the question of regularising the whole proceedings is now before the House. As the House knows, the chief reason is that the Government of India and the various State Governments concerned—the Governments of East Punjab, West Bengal and Assam—came across and encountered numerous difficulties in presenting their cases before the Pakistan Government. At the time of the Partition, it had been arranged between the two Governments that pending proceedings would continue and that decrees passed by courts in India and in Pakistan would be executable on the other side, that is to say, in Pakistan and India respectively. But for reasons which are not quite known, the Pakistan Government went back upon it and they passed an order under the Indian Independence Order withdrawing from that procedure and clearly directing that any decree obtained in a court in India would not be executable against the Pakistan Government in Pakistan and would not be recognised by courts in Pakistan. The language of that order was a little obscure; but the position was made clear by the Advocate General of East Bengal who came to attend a case in the Supreme Court here. He stated clearly that whatever the decision of the Supreme Court may be in such a case, the decree passed by the Supreme Court, and by Indian courts, would not be recognised by Pakistan and would not be given effect to. That being so, it would be absolutely incongruous that we should be bound by an arrangement from which the Pakistan Government had rescinded.

Apart from this, both the State Governments and the Indian Government have found great difficulty in presenting their cases in the Pakistan courts. There is no machinery there and legal aid cannot be arranged with convenience. And sometimes it is very difficult to be quite sure that the Pakistan courts have decided cases in accordance with law and proper procedure. It is for these reasons that it was found necessary to issue the Ordinance, and now I am presenting this Bill for the consideration of the House.

Mr. Speaker: Motion moved:

> "That the Bill to render ineffective certain decrees and orders passed by courts in Pakistan against a Government in India and to provide an alternative remedy to persons who have secured such decrees or orders, be taken into consideration."

Shri Kamath (Madhya Pradesh): Sir, on a point of propriety though not of order, may I submit that this Bill has been introduced only today and we have not had sufficient time to consider it and give notice of amendments. I know some hon. Members have had copies of the Bill, but those of us who came only yesterday to the capital have not had time to send in amendments to the Bill. Under the rules also we are allowed at least two days' time after a Bill is introduced.

Pandit Kunzru (Uttar Pradesh): May I say a word in support of what has fallen from the lips of my hon. friend Shri Kamath. This Bill deals with a matter of importance. It is not so simple as it might appear to be on the surface. It affects not merely citizens of Pakistan who may have obtained decrees against a Government in India, but also Indian citizens in the same position. It is obvious, therefore, that the Bill requires very careful consideration, and if I am not giving away a secret, I may say that the Law Ministry itself is looking into the matter. I think therefore, that it is desirable that the consideration of this Bill should be postponed for two or three days.

Shri Kamath: Hear, hear.

Pandit Kunzru: We have not had any time to consider the effect of this Bill on Indian citizens carefully; nor were copies of the orders passed by the Pakistan Government in 1948 and 1949 available. I have got them from the Law Ministry just now—only just now. I hope, therefore, that my hon. friend the Law Minister will agree to the postponement of this discussion.

Shri Naziruddin Ahmad (West Bengal): There are certain obscurities on the subject, I speak in support of the motion—I mean the motion for postponement. (*An Hon. Member*: There is no motion for that.) Whatever it be, I do not stand on names. The Statement of Objects and Reasons makes it clear that there were certain obscurities in two orders passed by Pakistan. The second point mentioned is that the Advocate General of East Bengal in his argument in a recent case in India gave it as his opinion, or rather argued that a decree passed in India would not be given effect to in Pakistan. The question now is whether we should proceed on this slender basis—obscurity of language and the argument of the Advocate General. Really, the matter should be taken up between the two Governments and the position clarified. If there is any danger, as is now apprehended, there is every reason why we should pass the Bill. But I believe, the matter has not been clarified.

Moreover, the orders upon the interpretation of which the merits of the case depend, have not been made available to us. The hon. Member who just preceded me has said that he has been able to get copies of these orders from the Law Ministry. But there are others like me who have not been able to secure copies of these orders although we made our best efforts in the Library to get them. The matter being of great importance, I suggest there may be a postponement of one or two days in the course of which we may study the matter and come thoroughly prepared.

Dr. Katju: I have no objection to meet the wishes of my hon. friends. This may be adjourned for two days.

Mr. Speaker: Two days exclusive of today or inclusive of today?

Pandit Kunzru: I suggest to my hon. friend that this Bill may be taken into consideration on Monday.

Dr. Katju: We want to close the session as quickly as possible. So we will take it up day after tomorrow.

Pandit Kunzru: I will ask my hon. friend to agree to my proposal.

Nothing will be lost really. Government have a good many Bills to put forward and surely they can give priority to other Bills over this.

Mr. Speaker: I think we will put it off to the day after tomorrow.

Shri Naziruddin Ahmad: In the meantime we may get the papers.

Mr. Speaker: The hon. Member perhaps has not read the Parliamentary Bulletin dated the 4th February sent to every Member. It may be that he may have lost it in transit.

Shri Naziruddin Ahmad: They are too many in number and it is difficult to keep pace.

Mr. Speaker: It was clearly stated there that this Bill has been set down for introduction on the 6th February. It stated:

> "Further motions in respect of the Bill have also been included in the combined List of Business for Wednesday, the 6th, Thursday, the 7th and Friday, the 8th February, 1952. Copies of the Bill are accordingly being circulated in advance to hon. Members today so as to enable them to study the Bill and to give notice of amendments if any."

This was sent on the 4th. Whatever it may be, the hon. Member may go to the Library and see it.

Shri Naziruddin Ahmad: The Pakistan orders are not available.

Pandit Kunzru: If the hon. Member is not prepared to postpone this Bill till the 11th, will he agree to its being taken up on the 9th?

Dr. Katju: Ninth is Saturday. Why not have it on Friday? May I say I shall be happy to meet all hon. Members who have spoken, in my room. Let us discuss it out and I shall supply them with all the information that they require. They may come and discuss with me tomorrow and we can have the discussion in the House the day after tomorrow. I shall supply copies of the various papers in the course of the day. Tomorrow the Members may meet me at ten o'clock.

Shri Kamath: Let it be after five.

Mr. Speaker: Let us not discuss it now. Further consideration of this Bill is postponed to day after tomorrow.

PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS BILL

The Minister of Home Affairs and Law (Dr. Katju): I beg to move:

"That the Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India, be taken into consideration."

I hope the House will agree with me that this Bill should not meet with any great discussion. The Constitution itself provides for many matters. It lays down as to who would be eligible for election as President and as Vice-President and it lays down also provisions relating to the assessment of votes and we all know that Members of both Houses of Parliament and elected members of the Legislative Assemblies are eligible as voters. We have, however, to enact a procedure for this highest election in the land for the guidance of the Election Commission. The Election Commissioner is charged under the Constitution with conducting every election in India.

12 NOON

This Bill lays down the familiar procedure relating to nominations, the scrutiny of nomination papers and withdrawal of nomination papers. It lays down the procedure as to the conduct of these nominations. The Bill provides that election will be by ballot. Where the ballots will have to be cast and where the polling will take place—these are matters which will be provided for by rules either made by Government or made by the Election Commission as may be the case. One thing is quite certain that it would be by ballot and I do hope that this being the highest election, either there would be no contest, or wherever there is any contest, it would be a contest conducted in the fairest possible manner and there would be no difficulty whatsoever in having this election and the polling conducted in accordance with the rules and there would never be any such situation which may give rise to the filing of an election petition or raising of an election dispute but we have got to make provision for all such things. Therefore, in this Bill we have also provided for the conduct of election disputes and the trial and it occurred to us that this being the premier election in India, we should not leave it to the ordinary procedure viz., the Election Commission constituting the tribunal and it would be fit and proper that the highest court in the land, whenever such dispute may arise, should have jurisdiction over it. Therefore, the Constitution clearly provides that whenever any election dispute arises relating to the election of the President and the Vice-President, the only court having jurisdiction will be the Supreme Court and inasmuch as the Supreme Court is the master of its own procedure, this Bill provides or gives express authority to the Supreme Court to make the necessary rules and lay down the necessary procedure for the entertainment and trial of election petitions.

The House is aware that the Constitution in articles 54, 56 and 58 lays down the broad principles relating to the election of President. This Bill merely provides the details and, I hope, raises no question of any controversies. It is unnecessary for me to go into further details and I beg that the motion for consideration be accepted.

Mr. Speaker: Motion moved:

> "That the Bill to regulate certain matters relating to or connected with elections to the offices of president and Vice President of India be taken into consideration."

Shri Kamath (Madhya Pradesh): Sir, in regard to this Bill also, may I submit that while general discussion may proceed, sufficient time may be allowed to hon. Members for giving notice of amendments to the Bill, because we have not had sufficient time to study this Bill.

Mr. Speaker: I will consider this, though I would not promise, after the general discussion ends or just before that. I might invite the hon. Member's attention to the fact that this Bill was published in the Gazette of India on the 26th January and copies of the Bill were circulated to Members on the 2nd February, intimation being given in the Parliamentary Bulletin of that date. There have been Members who have tabled some amendments also.

Shri Kamath: Only last night.

Mr. Speaker: Yes, the hon. Member had his attention diverted in other directions.

Shri Kamath: Yes, Sir, most of us were busy otherwise.

Mr. Speaker: It all depends on the nature of the amendments.

Shri Venkataraman (Madras): I rise to warmly welcome this Bill as it provides for the method of election of the President and Vice-President of India, two of the highest offices of the realm. But I have a feeling that we have copied the Representation of the

[Shri Venkataraman]

People Act a little too closely and in some respects unnecessarily. Nomination to the office of President will, if the ordinary procedure is followed, be by one member of the electoral college seconded by another member. This may lead to any number of frivolous nominations being filed by persons who may not command even two or three votes of the electoral college. If we want to keep up the dignity of the office of President then it would be necessary to lay down that the nomination paper should be signed by not less than ten members of the electoral college so that people who command at least a certain amount of confidence of the members of the electoral college may be nominated to contest the office of President.

Shri Kamath: Not ten, but one hundred.

Shri Venkataraman: Personally I would even like it to be one hundred but ten is sufficient enough to give an idea to the people that the person nominated has the confidence of a sufficient number of voters so as to be elected to the high office. Otherwise I am afraid nominations may be filed by or on behalf of individuals who may not command the confidence of even a very small minority in the electoral college. Therefore, I suggest that in prescribing the procedure for nomination for the office of President as well as of Vice-President it should be provided that at least ten members of the electoral college in the case of the Presidential election, and in the case of the election of the Vice-President ten members of both the Houses of Parliament who are competent to elect the Vice-President, should be the minimum required for filing a nomination. It is not necessary for me to dilate on this point as hon. Members would appreciate the spirit behind this suggestion, namely to prevent any number of nominations being filed with the object either of gaining notoriety or even of bringing these high offices into contempt.

Then with regard to disputes in the elections we have very closely followed here the Representation of the People Act and have provided for a defeated candidate being declared elected. I would draw the attention of the House to clause 17 where it is provided:

> "A petitioner may claim. . . . . .
>
> (b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected."

It is my humble suggestion that no defeated candidate ought to be declared elected to these high offices, and if for any reason the election is void there should be a re-election and the person who commands the confidence of the people and whose name has not suffered a slur by defeat by another candidate should be declared elected. Therefore, sub-clause (b) of clause 17 appears to be wholly out of place in a Bill of this character where we are trying to provide for the procedure of election to the offices of President and Vice-President.

Likewise, in clause 18(c) provision is made for declaring the election of the returned candidate to be void and for declaring the petitioner or any other candidate to have been duly elected. This provision also appears to be wholly out of place.

In the Representation of the People Act we have provided that either the defeated candidate or anyone else on his behalf or independently may file an election petition. In the case of the elections of President and of Vice-President I do not think it would be safe to allow any person to file an election petition: it should be the defeated candidate himself who files the petition. Here if you allow any other person to file an election petition then a defeated person who may not be willing to face the trials and tribulations of an enquiry may set up some other man, some man of straw, to question the validity of the election and thereby bring these high offices of President and Vice-President into contempt. People who contest for the offices of President or of Vice-President may themselves be unwilling to face the Supreme Court so that if you allow some other person to challenge the validity of the election they may set up some other men of straw who will face the Court and make wild allegations which may go to lower the reputation of the person who has been elected. Therefore, the provision contained in the Representation of the People Act, however valid it may be so far as election of Members of Parliament or of State Legislatures is concerned, would be wholly out of place in the case of election to the offices of President and Vice-President. In these two cases only the defeated candidates should be allowed to file election petitions and contest the validity of the elections. Otherwise, I feel that wild, unsustained allegations may be made by irresponsible persons who may be set up by the defeated candidate with the result that even though ultimately the Court may declare the election valid, even though

the Court may declare ultimately that the allegations are unfounded, still mischief would have been wrought and harm done to the reputation of these high offices.

In taking into consideration this Bill I wanted to make these suggestions. I have given notice of amendments but I am not sure whether they will come up today as the notice was given only this morning. But if the suggestions are acceptable to the Government, Government themselves may move these amendments and see that the election of the President and the Vice-President is kept on a very high level, that no frivolous nominations are filed, and that even in the conduct of election petitions a high standard is maintained so that the person who is elected to the high office may hold the office in dignity and also preserve the dignity of the Constitution and of the country.

Shri R. K. Chaudhuri (Assam): Certainly it is a matter of vital necessity that a Bill of this kind should be discussed at this stage. But what I deprecate in this Bill is the spirit of go-slow movement. We had ample experience of that go-slow movement in the recent elections but it has been allowed to continue even in this Bill.

[SHRIMATI DURGABAI *in the Chair*]

It is a matter of wonder that the hon. Minister who has just fought an election should not have considered it necessary to correct the Bill in the light of his experience. I was referring to the go-slow movement in the recent elections. It will be a surprise to the rest of the world to learn that the result of an election which took place on 19th January has not yet been announced. Is it not a proof of incompetency of our officers? Is it not a proof of the indifference of our Government that such a thing should be allowed to continue?

Shri T. Husain (Bihar): But where was it?

Shri R. K. Chaudhuri: Everywhere. So far as my constituency and my State are concerned the elections took place on the 19th January and very probably it will still take 12 or 15 days before we know the results of those elections. Is this not a case of indifference and neglect? If you say that one Returning Officer is not competent to go into the question, then there are Assistant Returning Officers. Why could not the Assistant Returning Officers be authorised to count the votes?

And then I regret to say that the Appointment of Returning Officers is confined to Government servants. Why should it be so? What is the reason for which you prefer a Government servant to a non-official with experience and honesty? I would just relate to the House how the Returning Officers have been behaving. They have not even selected the Presiding Officers properly. There have been instances in which the Presiding Officers have issued to the voters the Parliament ballot papers for the State Legislature and the State Legislature ballot papers for the Parliament, with the result that in one constituency 1900 votes were rejected. Do you select Government servants to be Returning Officers because they show so much incompetency?

Shri J. R. Kapoor (Uttar Pradesh): In the particular constituency referred to by the hon. Member, may I know when the defect was found out?

Shri R. K. Chaudhuri: On the 25th or 26th January.

Shri J. R. Kapoor: Before counting or after counting?

Shri R. K. Chaudhuri: After counting.

Dr. Katju: May I respectfully point out that the hon. Member is discussing the elections which are now almost over instead of discussing the Presidential and Vice-Presidential Elections Bill?

Shri R. K. Chaudhuri: I understand the objection, but I am only pointing out this obsession that only Government servants should be entrusted with the responsibility of being Returning Officers. I am saying that the Government servants acting as Returning Officers have proved an entire failure in some instances. Have you for a moment imagined what great inconvenience is caused to the public by this sort of inefficiency?

I shall cite another instance. A Presiding Officer quite unwittingly signed some ballot papers. He should not have done so. Nobody asked him to do so and he did so. The result was that the Returning Officer rejected 800 ballot papers because they were signed by the Presiding Officer. Thus the candidate concerned lost 800 votes. Who is to be responsible for this? The Presiding Officer may be an ignorant person, with no idea, with no experience, of the elections and yet you say that none but a Government servant should be the Returning Officer. You say so even in this Bill. I

[Shri R. K. Chaudhuri]

should like to know the particular reason for which a Government servant is selected more than anybody else.

Now, take this Bill. You say that the date for the scrutiny of nominations shall be a date not later than the third day after the last date for making nominations. Why cannot the scrutiny take place immediately after the filing of the nomination paper? I have always found that when you fix a maximum price, that maximum price becomes the normal price. Similarly, when you fix a last date that last date becomes the only date that is taken hold of by the Officers. They do not think of an earlier date. Why should there be three days for the scrutiny of nominations in the Presidential election?

Dr. Pattabhi (Madras): There must be time for objections being received.

Shri R. K. Chaudhuri: Objections may be received immediately and they should also be disposed of immediately.

Dr. Pattabhi: Lawyers must be consulted.

Shri Bhatt (Bombay): It only says "Not later than the third day".

Shri R. K. Chaudhuri: But my experience is that when you fix the last date, it is invariably taken as the first date.

Shri Bhatt: It might be so in your case.

Shri R. K. Chaudhuri: It might be so in yours too! But because a particular omission has taken place in Assam and that happens to be a Province which may be safely ignored, you cannot suggest that it should be done everywhere. That is not the argument.

An Hon. Member: The objections must be found out! That requires time.

Shri R. K. Chaudhuri: I cannot understand the argument that there should be some objections. Even if there are objections, why should you have two days for scrutiny of nominations? This is part of the go-slow movement, I say. You want to see that the elections are lengthened out as far as possible. That seems to be the idea.

Then, take the withdrawal of nominations. You have said that the date for withdrawal will be the third day after the date for the scrutiny of nominations. Why do you want so much time? You want to give time, perhaps, for the other candidates to come and flatter this man so that he can decide whether to withdraw or not. What is still more striking and unusual is this: If the day for the final withdrawal of nominations happens to be a holiday, then it shall be the day after the holiday. Why do you not follow the same rule with regard to other dates? Supposing there are four holidays; it will only take place after four days. Are you not wasting time? Why do you want to give so much time particularly for withdrawal of nominations but do not do so in respect of the scrutiny of nominations?

An Hon. Member: Supposing there are *Puja* holidays?

Shri R. K. Chaudhuri: It may not be *Puja* holidays every time but there may be other reasons. For example, the Presidential election may come off at any time owing to death, resignation or removal. It may not come off during a particular season. I consider these things very peculiar. And then take sub-clause (3) of clause 4. It is said: "In the case of an election to fill a vacancy caused by the expiration of the term of office of the President or Vice-President, the notification under sub-section (1) shall be issued on, or as soon as conveniently may be after, etc. etc." By Jove, I never understood that the law could be like that. "As soon as conveniently may be"—convenient for whom? Convenient for the candidate, or convenient for the Returning Officer, or convenient for the Legislature?

An Hon. Member: Convenient for all concerned.

Shri R. K. Chaudhuri: So, the convenience of all has to be considered before you issue the notification. I think this is a departure in legislation which I have not seen so far. I have never known an instance where it is laid down that something shall take place at the convenience of some persons.

Similarly, sub-clause (4) also allows wide latitude to the authorities. The sub-clause reads:

> "In the case of an election to fill a vacancy in the office of President or Vice-President occurring by reason of his death, resignation or removal or otherwise, the notification under sub-section (1) shall be issued as soon as may be after the occurrence of such vacancy."

Is this sub-clause not put in very vague terms? It may be one day, or two days, or a month or even three months. There is no time-limit fixed.

Mr. Chairman: May I suggest to the hon. Member that he can go into these details a little later. We are discussing only the general principles underlying the Bill. When we take up the detailed consideration of the various clauses, we can go into those details.

Shri R. K. Chaudhuri: I do accept your ruling. But the purport of my argument is that a 'go-slow' movement has actually been incorporated in this piece of legislation, quite unusually, and I only cited instances in support of my argument.

Another clause on which I want a little enlightenment is clause 20. One of the two grounds which can be raised for assailing the election of a candidate is the number of votes obtained by corrupt practices—sub-clause (b). How on earth can any court determine that a candidate would not have obtained a majority, but for certain number of votes obtained by corrupt practices? The corrupt practices have been defined in the Representation of the People Act. For example, it is stated that it will be a corrupt practice if you provide conveyance to the voters, or entertain them to refreshment? Now, who can prove that such and such persons were taken to the booth in vehicles, or were entertained to tea, and consequently those votes should be treated as invalid.

Take another instance. It has been stated that it will amount to a corrupt practice if any poster or circular were issued without giving the name of the printer or publisher of the press in which the paper is printed or published. Thousands of such posters are issued by the candidates. How can you say that for the commission of this corrupt practice a candidate should be disqualified? It is an impossible question for a court or a tribunal to decide. I should personally consider that corrupt practices of a major nature which would invalidate the election of a candidate should be definitely and specifically stated in clear terms, and should not be vaguely left to be decided or determined by a court.

In fact so far as this Bill is concerned, there should be very few occasions for the commission of corrupt practices. The Government should therefore lay it down here certain corrupt practices of a serious nature instead of referring to all the corrupt practices mentioned in the Representation of the People Act. A single instance of such a corrupt practice should *per se* render the election invalid.

So, I would request the hon. Minister to go into the points which I have raised and accept it as a principle that no avoidable delay should take place in the matter of elections of any kind, much less in an election of this kind where very high public offices are concerned. Secondly, in the matter of corrupt practices, we must not spread the net to catch anybody and everybody, but only mention the specific corrupt practices.

Mr. Chairman: Party IV of the Bill defines the corrupt practices.

Shri R. K. Chaudhuri: But the clauses in it refer to various provisions of the Representation of the People Act. The election of the President and Vice-President of India is somewhat different from the election of a member of an Assembly or of the House of the People. In indirect elections of this kind you must lay down definite items of corrupt practices and anybody who commits them should be straightway disqualified. It is very difficult, as I have said, to find out whether a corrupt practice has affected the result of an election. I would say that if any candidate is guilty of such a corrupt practice, no matter whether he commits one corrupt practice or several such corrupt practices, he become *per se* disqualified to hold the position of President or Vice-President of India. That is the point I was labouring.

I think I have in conformity with the directions given by you stated enough on the subject. If I speak still further I will have to go into details which I desire to avoid.

Shri Kamath: While I appreciate the necessity for this Bill I am not able to agree, in the first place, with the observations that have been made by my friend Mr. Venkataraman. He seems to set great store and attach so much importance to the office of the President of the Indian Union that he is inclined to think that the qualifications of the candidates, or at least the scope of the candidates seeking election to this office of President should be restricted. This in my humble judgment infringes the inherent right conferred upon a citizen of India by the Constitution. If my friend had taken the trouble to refer to the relevant articles of the Constitution he would have found that it is

[Shri Kamath]

open to anybody from, may I say the most respected and the most honourable citizen of this country to even, to use a common phrase, a 'street-walker' who fulfils the qualifications laid down in these articles to aspire for the Presidentship of the Indian Union. And may I ask, why do we parade our democracy, if we debar certain individuals, though indirectly, from aspiring to or seeking election to this office of the President of the Indian Union? If the observation made by my friend Mr. Venkataraman were to be agreed to what will follow is this. I suppose he will agree that the office of the Prime Minister of the Indian Union is not any less important than that of the President of the Indian Union. In some respects perhaps it is even more important. The office of the Prime Minister of India is far more important, far more strenuous and far more responsible than the office of the President of the Indian Union. If anybody who is a citizen of India, who has reached a particular age, who is not insane and who is not an undischarged insolvent can aspire to become the Prime Minister of India by contesting elections, what reason on earth is there to debar anybody, may I say, even a person who drives a bullock-cart or a tonga-wallah to aspire to the office of the President of the Indian Union? My friend forgets that it was Mahatma Gandhi who, after India became free, in those troubled days that intervened between the partition of India and his martyrdom, said in one of his post-prayer speeches in New Delhi that he would be most happy if a Harijan woman was elected as the President of the India Union. (*Interruption*). My friend's memory is very short. If he had listened to the post-prayer speeches of Mahatma Gandhi in those days he would have found that he said that he would be very happy if the office of the President could be filled by a Harijan woman and he looked forward to the day when that consummation would be reached. If the rule laid down by my friend Mr. Venkataraman were to be accepted, I fear that the contingency may arise where a Harijan or a *Chamar* or a low caste citizen of India, who may not normally enjoy the confidence of these members of the electoral college will be deprived of the right to contest the election to the office of the President of the Indian Union. Each and every citizen, man or woman, who has completed the age of thirty-five years and who is qualified for election as a Member of the House of the People should have equal right to contest the election to the office of President of the Indian Union. If so far as election to the House of the People is concerned, just a proposer and seconder are enough for making a nomination valid, I see no reason why the same rule should not apply to the nomination of the President and Vice-President of India. Therefore, I appeal to the House not to accept, and to totally reject, the suggestion made by my friend Mr. Venkataraman that there should be at least ten Members, or more, for a nomination to be held valid in the case of a candidate to the office of President or Vice-President.

Coming to other matters that are relevant to the discussion of this Bill, I may first of all take up the clause which relates to the Returning Officer—clause 3 in Part II of this Bill. The Statement of Objects and Reasons, as also the Constitution of India, makes it clear that the President shall be elected by the members of an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the Assemblies in the various States, and that the Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting. Now, the vital point of difference between the election to these offices of President and Vice-President on the one hand and the election to the House of the People or the State Assemblies on the other is this that the electoral college in both cases consists of Members of Parliament, or members of Parliament *plus* the elected members of the Assemblies of the various States. That means to say that all the electors are legislators, either at the Centre or in the various States. Therefore, to my mind at any rate, it is appropriate and, may I say, necessary also in the very fitness of things that where the electors are solely and wholly and exclusively legislators, Members of Parliament or members of State Assemblies, or both, the Returning Officer should not be an officer of Government but an officer of Parliament. The Government should not have anything to do so far as the Returning Officer's duties in these elections are concerned. The Returning Officer must be and can be no other than an officer of the Parliament, whoever that may be. The Speaker may nominate him or he may be appointed in some other way but a Government Officer has no right to be appointed or to function as a Returning Officer for the election to the President and the Vice-President of the Indian Union. (*An Hon.*

Member: The Election Commissioner himself.) Let them decide it. My point is that an officer of Parliament should be the Returning Officer and not an officer of Government for the election of the President and Vice-President. (*Interruption*). There is a world of difference between an officer of Government and an officer of Parliament. That is the second point to which I would like to draw the attention of the House. There is one Parliamentary Secretary as well as a Deputy Minister doing duty for the Home Minister and I hope they have taken some notes. Otherwise, I would refresh their memories when the clause comes up again later on today. I may get an opportunity but I hope that the Deputy Minister and the Parliamentary Secretary have done something for him. . .

The Parliamentary Secretary to the Prime Minister (Shri Satish Chandra): The hon. Member's point has been noted.

Shri Kamath: That is the second point. The third point that I would like to make out in connection with this Bill is with regard to the scrutiny and withdrawal of nominations for election to these offices. The experience that has been gained by us during the elections that have taken place has shown us that where nominations have been rejected on some ground or other by the Returning Officer, adequate time was not allowed under the Act and rules for the filing of an appeal against the rejection and the disposal thereof. To give a concrete instance, in my own province of Madhya Pradesh, the Returning Officers in the various districts passed conflicting orders, mutually contradictory orders with regard to the nominations filed by several candidates. In some districts the office of 'Patel' was deemed to be an office of profit and Patels who filed their nominations as candidates for election to the State Assemblies or the House of the People were rejected in some districts. In other districts the Returning Officers held that the office of 'Patel' was not an office of profit under the Government and the candidates who were Patels were allowed to contest the elections. I do not know what the position has been in other States but in the State of Madhya Pradesh, a very funny, a very strange situation has arisen. In some districts persons holding the office of Patels contested the elections, whereas in the same province, in other districts persons who were holding the office of Patels were deprived of the right to contest the elections. Apparently the Returning Officer acted in his own discretion in every district; he had no precise instructions before him and it has given rise now to a situation where, I am afraid, there will be a crop of election petitions by those candidates who filed nominations and, as Patels, were rejected. It is only in 2 or 3 districts that their nominations were rejected but in other districts they were allowed to contest the elections. A re-election in this fashion will mean so much additional expenditure not merely to the Government in these days of strained economy and rather inadequate finances but also additional expenditure to the candidates who would again contest the elections. The expenditure for these Presidential elections would perhaps mean only the daily allowances to be paid to the Members of the State Assemblies who muster strong in the capital or somewhere else to elect the President or the Vice-President, but even that would come to a pretty large figure. The daily allowances have to be paid to the State Assembly members who will all come to the capital or it may be to their own capital or metropolis, but yet some additional expenditure will be incurred. But if no time is given for the filing of an appeal against a rejection of the nomination and the disposal thereof, I am afraid that a situation may arise, after the election is over when the rejected candidate may file an election petition, and if an election petition is allowed by the appropriate Tribunal or the Supreme Court, whichever it is, there will have to be a re-election and the whole process will have to be gone through again. I, therefore, feel that even at the risk of postponing the election of President by a month or two, in an election like this, sufficient time must be given for the rejected candidate to file an appeal, if he deems it necessary against the rejection of his nomination, and the disposal thereof. If that is not done, I feel that the candidate whose nomination is rejected will be in a difficult position, because he would have to await the result of elections and then file an election petition, if it comes to that.

Mr. Chairman: Does it not involve enormous delay?

Shri Kamath: No. If you add one more Judge to the Supreme Court for these appeals for the time being. We can have an acting, *ad hoc* or additional Judge to dispose of election petitions. After all, there will not be many election petitions.

Mr. Chairman: How many appeals do you provide, one, two or three?

Shri Kamath: It is for the Law Ministry and the Election Commission to decide, but there must be an appeal. I am sure that an appeal is provided for, and where an appeal is provided in the case of the State Assemblies and the House of the people, why not have room for appeal for elections here?

Mr. Chairman: This is not provided in the Representation of the People Act.

Pandit Thakur Das Bhargava (Punjab): We had a proposal like this and the House was in favour of it, but unfortunately this was not accepted.

Shri Kamath: Then in an election petition the whole process will have to be gone through.

Mr. Chairman: The hon. Member will remember that in the Representation of the People Act when the question of making the Returning Officer's order appealable was under discussion, I think the same objection was raised, that it will involve a lot of delay. Perhaps it will apply here also.

Shri Kamath: I submit with due deference to your mature judgment that that Act is not the last word, and Parliament is at liberty to change it. Therefore, I submit that in this case, in this matter of election to the President and the Vice-President of the Indian Union, there should be sufficient time allowed for the candidate to appeal against any unfair rejection of his nomination and disposal thereof.

The next point that I would like to refer. . . .

Shri R. K. Chaudhuri: On a point of information from the hon. Member, may I know,... ... ...

Mr. Chairman: Will the hon. Member address the Chair?

Shri R. K. Chaudhuri: I wish to be forgiven for my lapse. I wanted to ask this question. Supposing the matter in a preliminary stage, goes on appeal to the Supreme Court and in the meantime, the period of the previous regime expires, who will act as the President in the meantime? The new President must take over on the next day after the expiration of the period.

Shri Kamath: The Vice-President takes over.

Pandit Thakur Das Bhargava: Only one week is to be provided for an appeal.

Shri Kamath: I hope that question was not addressed to me, but to the Chair.

Shri R. K. Chaudhuri: To you through the Chair. I have no business to put a question direct to the hon. Member. I am putting the question to the hon. Member through the Chair.

Shri Kamath: In so far as it is addressed to me, of course, through the Chair, I think that provision has been made in the Constitution itself that where the President cannot function for some reason or other, the Vice-President takes over for the time being.

Shri R. K. Chaudhuri: Not a question of 'for the time being'.

Shri Kamath: Or, Mr. Chaudhuri can take over.

The next point that I would like to make out is with regard to clause 11 of the Bill which relates to counting of votes. I would like to tell you and the House the rather unfortunate experience that I have had myself in my constituency in the recent elections. As the rules have been left to be made by Government in consultation with the Election Commission, this matter may not come up before the House in detail later on. I should therefore, like to take this opportunity to suggest to my friend the Law Minister the difficulties that may arise and the irregularities that are liable to be committed in regard to the counting of votes, so that he may bear these matters in mind when rules are framed for the counting of votes for the candidates for the office of President and Vice-President. The rules that were made under the Representation of the People Act were laid before Parliament during the last session. We thought that was the last word on the subject. After we went home or rather to our constituencies to do what we could in the elections, the rules were changed here to the disadvantage of the candidates. I will mention only one or two changes that were made in the rules to the disadvantage of the candidates who contested the elections. That communication to the Returning Officers in the various districts emanated from here as late as 24th of December or thereabout. The Returning Officer showed this communication to me. I said, of course, that Parliament had had no opportunity to scrutinise the amendments to the rules. But he could not do anything; he was helpless.

One vital change from which many of us must have suffered was to this effect. The original rules under the Act provided with regard to the counting of votes that one ballot box shall be opened at a time. This very healthy and salutary rule was completely changed: I do not know for what reason.

Shri B. Das (Orissa): That was so everywhere.

Shri Kamath: I may say that it was a most pernicious change. . .

Shri J. R. Kapoor: Was the rule changed or the practice?

Shri Kamath: The rule was changed and amended.

Shri B. Das: On a point of information. Is the Law Minister amenable to the vagaries of the Election Commission? Was the Law Minister consulted at every stage when the Election Commission went to change the rules and practice?

Shri Kamath: May I point out that the last clause which says that the Central Government. . . . .

Mr. Chairman: The hon. Member will continue after Lunch.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Half Past Two of the Clock.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Shri Kamath: When the House rose for lunch this morning, I was referring to clause 11 which deals with the counting of votes. This matter of counting of votes comes only next in importance to the actual polling, at any rate, as my experience has shown, and as I said in the forenoon, this particular clause relates to the counting of votes, and it may not come now before the House separately, because clause 24 of the Bill confers that power upon the Central Government in consultation with the Election Commission. I would like Parliament to scrutinise the rules. But as happened in the case of the Representation of the People Act, that may not be possible, and even if possible, we may not have the opportunity to scrutinise the rules. The rules were made under the Act passed by Parliament last year—the Representation of the People Act—and those rules were very sound and very salutary, and the candidates would not have suffered if those rules had remained intact. I did not have a copy of those rules this morning, but I have got a copy just now from the Library and I would read out, for the information of the House, rule 46 occurring in Chapter III of the Rules and Regulations framed under the Act. Sub-rule (6) of Rule 46 deals with the procedure to be followed at the counting of votes. That rule is part of the rules framed under the Act and all these rules were laid on the Table of the House when Parliament was in session, and we thought—at any rate I thought—that those rules would be adhered to in letter and in spirit and would not be amended behind our backs. Sub-rule (6) says that one ballot box shall be opened at a time. This was necessary because another rule stated that a candidate could appoint only one counting agent and not more. I am sorry I do not have a copy of the Act; but that is the position, that only one counting agent and no more can be appointed. That is the express phraseology. If one ballot box was opened at a time, that is quite all right, because only one counting agent could be appointed. If more than one ballot box is opened at a time, it may be very difficult, well nigh impossible, for the candidate or his counting agent to supervise the actual counting of votes. In my constituency, when the counting followed the day after the polling was over—I did not know about the amendment of the rule—I showed the Returning Officer this rule which Parliament had approved, saying that one ballot box should be opened at a time. But then he said that that rule had been amended and he showed me the amendment. I was taken aback. The amendment was "when the ballot boxes are opened for counting." What a difference these words make! It is not even mentioned how many ballot boxes are to be opened at a time. It was a pernicious amendment which made the counting absolutely unfair to the candidate. I would even say the counting was illegal, irregular and completely vitiated the whole election.

Shri B. Das: Not so bad.

Shri Kamath: You have won the election and you may think so; but I am quoting from my own experience. After all we have our own experiences in life—some have pleasant experiences and some have unpleasant experiences. I for one would restrict my remarks to the experience that I have culled during the last one or two months. I asked the Returning Officer

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whether I could appoint more than one agent so that each agent may supervise one box—as many agents as there are boxes opened at a time. He said 'no'. That rule had not been amended. Ultimately he said that he would allow one agent formally and one informally. That is to say, one agent by filling the form and one agent without filling the form.

An Hon. Member: I had five agents.

Shri Kamath: Under the law only one is allowed. So I submit that the amendment of this important rule behind our backs without the approval of Parliament, without the scrutiny of Parliament has worked to the great disadvantage of these candidates, not merely myself but other candidates have also complained that this was never expected. They were taken aback on the day of counting and this had not been communicated to us either. I do not know whether it was sent to every Member of Parliament for information. This was not done till eleven o'clock on the day of counting. This, I submit, has violated the supremacy of Parliament—this sort of back-door manner of amending the rules. This has vitiated the sanctity of Parliament and the Members of Parliament were not even informed of the amendment. I do not know what view the hon. Members here take of this matter, but I for one, would say that this one matter has vitiated the whole election throughout India, and if I had the power to do so. I would have ordered re-election. That perhaps is not possible. But we should take a lesson for the future from this. There is another feature that came to light about this affair of counting. The Officer concerned, in my constituency at any rate, seems to have taken very lightly the counting affair and did not attach that serious importance which the matter demanded. As I already said it comes next in importance only to actual polling. If something goes wrong in counting, then the polling is as good as useless. There was the rule passed by us in the last Session—I refer to sub-rule (v) of the same rule 46. It says that the counting of all the ballot papers contained in the ballot boxes allotted to some candidate shall be completed before the counting of the ballot papers contained in the ballot boxes allotted to another candidate in that constituency is taken up. I was candidate No. 1 in my constituency in the serial order of the boxes placed. Actually if this was observed in spirit the counting of my papers should have been completed before the counting of other boxes was taken up. But this rule was also amended behind our backs. The Returning Officer in the district or constituency was given power by the Election Commission—I suppose in consultation with the Government—to count votes in not more than five places in a Parliamentary constituency and the matter was left to the discretion of the Returning Officer to select the five places and the dates also on which the counting would take place in any place. I would not have minded even that, if the counting had been taken up day after day. But that was not done. The Returning Officer in my constituency selected five places because the rule was 'not more than five'. In the first four days, it was taken up day after day and at the end of the 4th day of counting I was leading by 13,500 votes. But, a time-lag or a gap of four days intervened between the penultimate or the 4th day and the last day of counting. The fourth counting took place on the 29th January and the last counting took place on the 3rd February. There was a gap of four days *viz.*, 30th and 31st January, 1st and 2nd February.

Pandit Balkrishna Sharma (Uttar Pradesh): But the holidays might have intervened.

Shri Kamath: There were no holidays unless 30th January was a holiday because of Mahatma Gandhi's martyrdom day. They suspended the operation for four days and I do not know whether this has taken place anywhere else but it did take place in my constituency and the experience that I gained at the counting, I must say with deep regret, has badly shaken what confidence I had in the officers who conducted the elections so far as my constituency is concerned despite the tributes paid by the Government, the Prime Minister and the Election Commissioner.

Shri Naziruddin Ahmad (West Bengal): How had this delay affected the result?

Shri Kamath: The rule has been broken in spirit and perhaps in letter also. The rule says that the counting of all the ballot papers contained in the ballot boxes alloted to a candidate shall be completed before the counting of the ballot papers contained in the ballot boxes allotted to another candidate in that constituency is taken up. This was amended to this extent that the Returning Officer was given discretion to have counting in five places in the same constituency.

I was just referring to the fact of how my confidence has been shaken. Actually, when the boxes were taken up for counting the instructions that

had been issued to the Presiding Officers as regards the sealing of ballot boxes were found not to have been complied with. Twenty-one ballot boxes of mine on the last day of counting—till then all had gone well—were *minus* the paper seals on the boxes. Instructions were explicit that as an additional safeguard the slit on the boxes should be closed by a paper slip together with seals thereon. I made an application in writing that because of this irregularity among others—on one of the boxes the label bearing the symbol was missing, on two other boxes the label bearing the symbol was detached from the box and placed on top of the box loosely, and on another box the inner symbol was broken—well, I made an appplication in writing to the Returning Officer that in view of these irregularities detected in my boxes the counting should be stopped. In a cavalier fashion the Returning Officer dismissed the application. He passed orders saying that the paper sealing on the boxes was not obligatory, it was only an additional precaution, but was not obligatory. I asked for a copy of the order from the Returning Officer. He said as it was a Sunday stamps were not available, and as the application had to be stamped and the copy of the order had to be stamped and as stamps were not available he could not give me a copy of the order. So I paid him five rupees in cash and he said whatever amount was needed for stamps would be utilised and the rest sent by money order to Delhi. The order has not reached me as yet—I am still awaiting it.

Another disquieting feature of the counting was this. When it was discovered at the end of the counting, in spite of all these objections raised by me, that the margin was as narrow as 174 votes in a total poll of 165,000 in which 100,000 votes were cast against the Congress candidate—because the anti-Congress votes were split, the Congress candidate won—in view of the fact that the margin was just ·1 per cent. of the total poll, I asked for a recount of the votes. I gave an application in writing for a recount of the votes but that was refused.

Shri T. Husain: That was refused?

Shri Kamath: That was refused—it is in writing.

Shri B. Das: Did you ask the Election Commissioner?

Shri Kamath: I asked the Returning Officer—there is no Election Commissioner in Hoshangabad.

The Minister of State for Finance (Shri Tyagi): Is there any hope of your winning on a recount?

Shri Kamath: I am not so very anxious about winning or losing. It is a question of doing justice. But now that you are a Minister you might have forgotten all about justice. I am afraid Mr. Tyagi has forgotten all about those things he used to talk about when he was on this side.

Shri Tyagi: I will miss you the most.

Shri Kamath: Well. I shall not miss myself any way, and you will not miss me outside.

I was saying that when I discovered the margin was so narrow I demanded a recount and I wanted specially a check of the ballot papers found in the ballot boxes as against the numbers of these papers issued at the polling booth.

Mr. Chairman: I do not want to say anything about the manner in which the particular election of the hon. Member was carried on, but I have allowed so much latitude to the hon. Member that I would now request him to come to the Bill before the House. His discussion of his own election is very interesting and I have heard him at great length, I would now request him to come round to the points at issue.

Shri Kamath: I am deeply grateful for the light and guidance you have given, but as I already submitted at the beginning, the rules that will be framed by Government will not come before the House again. We do not know what sort of rules they are going to frame, and when it concerns a very high office as the Presidentship or Vice-Presidentship of the Indian Union, I think we should make the rules as fool-proof and as knave-proof as possible. Not only fool-proof but also knave-proof, because I for one would say that knaves have not been wanting, so far as the recent elections were concerned, equally with fools. There have been fools as well as knaves who have taken part in conducting the elections of India: who is in a larger number, fools or knaves, it is for the historian to decide.....

श्री भट्ट : डाक्टर अम्बेडकर नहीं हैं।

[**Shri Bhatt:** Dr. Ambedkar is not here.]

Shri Kamath: I wish my friend, Mr. Bhatt will make a special effort to get Dr. Ambedkar here so that he can throw light on this matter. He it

[Shri Kamath]

was who played a yeoman's role in drafting and passing the law through Parliament and framing the rules.

I was saying that the check of ballot papers in the boxes as against the ballot papers issued at the booths was also necessitated because at one place it was noticed in my constituency that the number of ballot papers in the candidate's boxes exceeded the number of papers issued at the booth by one—maybe one, but it exceeded by one. I brought this matter to the notice of the Returning Officer. He said, "If the winning candidate wins only by one vote we will take it up." That, I think, is hardly the right attitude to be taken in the matter. The number should have been checked—that was not allowed. It was found that it exceeded the number by one, but even that should have been a serious irregularity which normally should have necessitated re-polling.

At another place some ballot papers meant for the State Assembly were found in the boxes of the House of the People candidate and *vice versa*. But a very curious development arose. Everywhere, in all other booths wherever this thing happened, the State Assembly papers found in the House of the People boxes or *vice versa* were rejected as invalid. In one booth in my constituency when it was found that the House of the People ballot papers were found in the State Assembly candidate's boxes they were rejected as invalid, but soon after they were rejected, the Returning Officer made a reference to the Election Commissioner: "What shall we do if the State Assembly papers are found in the House of the People candidate's boxes? These have been rejected already." The instructions came—at least we were told that instructions came, we were not shown the instructions—that if the State Assembly papers were found in the box of the House of the People candidate they should be counted. And they were counted in my presence, actually. But on the same day that this thing happened, that is when the State Assembly papers found in the House of the People boxes were counted, at another place State Assembly papers were found in the House of the People boxes but they were not counted—they were rejected as invalid. The reason given was that no reference had been made to the Election Commissioner and no instructions had been received.

3 P.M.

These, among others, have been some of the serious irregularities, I would say serious blunders, serious illegalities that were committed at the time of counting because the instructions were not fool-proof and knave-proof. Therefore, it behoves this House to take a lesson from the experience we have gained and see to it that so far as, at any rate, the election of the President and the Vice-President is concerned, such irregularities are not committed by the officers in charge. It is very necessary that the rules framed are as perfect as possible, because I find that in the case of a breach of rules no election petition lies, though such a breach may have caused very material loss to the candidate concerned. Unless you can prove corrupt or illegal practice, the election will not be set aside. What law is this, I want to know. Is it a farce or is it just a mockery of law? The Returning Officer does what he likes and no remedy lies, unless of course the Government is strong and takes action against the Returning Officer. But about the guts of the Government I am doubtful.

Mr. Chairman: Clause 19(c) provides that if the rules are violated the election may be declared invalid.

Shri Kamath: I am not a lawyer and I bow to your superior knowledge of law. If that applies, then it is different. But I do not know whether solely on the ground that counting has been done wrongly the election can be declared invalid. The clause referred to by you talks of "void votes". I do not know what is a void vote.

Mr. Chairman: It also speaks of "non-compliance with the provisions of the Constitution or any rules or orders made under this Act."

Shri Kamath: I suppose this has been incorporated only in this Bill. It was not in the General Election law, so far as I can recollect.

Mr. Chairman: I think a similar provision exists in that too.

Shri Kamath: I am not sure. You must have a stronger memory. I take it from you that this provision is there, in which case a remedy will lie. If that is not there, then many of the candidates will have needlessly suffered on account of the whims and caprices of the Returning Officers without any remedy against the actions of the officers concerned.

In these circumstances, I earnestly plead with the House that so far as the election to these two offices is concerned, the rule should be restored to

its *status quo ante*. Sub-rule (6) of rule 46 is very important and has a direct bearing on the actual process of counting. The amendment should be deleted. Only one box should be opened at a time. This will safeguard the candidate against the misuse of the powers of the counting officers or clerks. What happened in the case of Shri Morarji Desai might not have happened if one ballot box had been opened at a time. If the newspaper reports are correct, some of the clerks were discovered in the lavatory with ballot papers hidden in some parts of their body or their costume. If only one box had been opened, nothing of this type would have occurred. The candidate would have been there before the counter and there would have been absolutely no scope for such a thing.

The process adopted is this. So many clerks sit in a row, or in two rows as if for meals. At one place in my constituency 66 clerks sat, thirty-three on this side and thirty-three on the other. Each clerk was given a box. Thus the candidate and his agent had to watch all of them at a time. We are not endowed with *Divyadrishti*.

Dr. Deshmukh (Madhya Pradesh): Did you ask for it?

Shri Kamath: I asked for it, but the boon was not granted, perhaps I may get it in the next life or later on in this very life through *yoga*. Anyway, this time I did not have it, nor did my agent have it. So, with four eyes we had to supervise 66 people counting the votes. You are well advanced in age and wisdom and you can imagine how difficult it would be for a candidate and his agent to supervise sixty-six boxes at a time. It is very easy in all this rumpus for any clerk to put a few ballot papers inside his pocket or elsewhere without anybody being the wiser for it.

An Hon. Member: Then the election may be declared invalid.

Shri Kamath: It is very well and good if the election is declared invalid but I doubt whether these irregularities are sufficient for declaring the election invalid.

I am not much concerned what happens to me, but the Prime Minister said when the election commenced that the election would be free and fair, and that we should fight with cleanness, decency and dignity. I hope the procedure adopted by some of the election officers will not falsify the expectations that were raised in the minds of the people by the Prime Minister's assurance. Therefore, when we are in the last stages of this Provisional Parliament of Free India, let us at least show to our people that we are capable of learning lessons from experience and are not like the old Bourbons who neither learnt nor forgot anything. Let us show that we are not dunderheads and that we have not closed our minds to any fresh air of experience or wisdom.

Thus, there are two points. One is that only one box should be opened at a time. The other is that the counting of all the ballot papers in the ballot box of one candidate should be completed and there should be no time-lag between one counting and another. It should be a continuous process. If you give as long as four days' time it is easy for any officer who is not quite fair and who lacks integrity to tamper with the ballot boxes, and tampering with the ballot boxes has been alleged in more than one place in Madhya Pradesh where it has been demonstrated that the ballot boxes could be opened without breaking the seals.

Shri Naziruddin Ahmad: That has happened elsewhere too.

Shri Kamath: It is all the more necessary therefore that you should take immense care to see that these things do not happen in the case of the election to the offices of President and Vice-President, and we become a laughing stock in the eyes of the world and an object of ridicule.

My last point is the one that was made by my hon. friend Mr. Venkataraman in regard to clause 17. It was a strange point that he raised: I could not appreciate the force of his argument.

[MR. SPEAKER *in the Chair*]

Mr. Venkataraman seemed to think that the defeated candidate should not in any case, in any event, be declared later on duly elected because of some irregularity. A defeated candidate is not always a defeated candidate. It may be that due to irregularities committed, that due to corrupt practices committed in an election, a candidate may have been defeated. He may have been defeated due to circumstances beyond his control and in spite of honest attempts that he made to rectify the irregularities—due to the cussedness or capricious whims of the Returning Officer, he may not have been able to rectify those irregularities. Should we for that reason lay down that the defeated candidate is not fit to be declared elected

[Shri Kamath]

later on, even after these corrupt practices or irregularities have been proved? A petitioner may claim that the election of the returned candidate is void. For instance, there may be a very narrow margin of votes between one candidate and another who has claimed relief and it is proved to the satisfaction of the Supreme Court that the declaration of the Returning Officer is void because of certain irregularities and corrupt practices. The Supreme Court may not give him relief—that is another matter. But to say that the candidate who came second should not claim relief does not stand to reason. He is certainly within his right to claim relief, so far as he himself is concerned.

I submit, therefore, that Parliament should be in a position to scrutinise the rules that will be framed by Government, in consultation with the Election Commission according to Part V of this Bill. I would earnestly plead again that the rules so framed and approved by Parliament after due scrutiny should not be amended behind the back of Parliament as happened in the case of the rules under the Representation of the People Act. I have quoted two or three instances of the amendments that have been made which worked to the detriment of the candidates who contested the elections. If the rules had stood intact as they were approved by us in the last session of Parliament, these irregularities that happened in the counting of votes would not have happened. I would not like to repeat what I have already said, but as you Sir, look a little surprised, because you were not in the Chair at that time, if you permit me, I would like to make out those two points. From the expression on your face it strikes me that you have not appreciated the force of my argument.

Mr. Speaker: Does the hon. Member wish to repeat his points?

Shri Kamath: Not unless you want me to. They are on record. I only want to stress the importance of the rules that will be framed under this Bill. While the rules must be fool-proof and knave-proof, they must not be amended behind the back of Parliament in utter contempt of Parliament. In the case of the amendments to rules under the Representation of People Act, Parliament had no opportunity to scrutinise them with the result that they worked to the detriment of the candidates who contested the elections held recently in the country.

Prof. K. T. Shah (Bihar): I consider this a necessary measure at this moment, which has to be passed in order to complete the working structure of our Constitution. On the mechanical side of this Bill I have to support many of the points made by Mr. Kamath, but perhaps that may be regarded as expressions of disappointment for oneself, which may be taken with a great deal of discount, and as such I would not emphasise those points.

I would, however, like to draw attention, even on the mechanical side, to two or three provisions of this Bill, which, in my opinion, need serious reconsideration, with regard, for instance, to the point raised by a previous speaker about the desirability of preventing frivolity in the choice of the highest officers of State in India, or the Head of the State in this country and, if I may use the word, his deputy or substitute on certain occasions. The question of frivolous choice, or even nomination will not be guarded against, in my opinion, by endeavouring to secure a large number of signatories to the nomination. Not only would that not be a guarantee of the real fitness of the individual to be proposed, because the names could be obtained out of a mere desire to please parties, but there is in my opinion a more serious objection that is hardly considered by those who advocate such a course. If the election is to be as proposed in this Bill by ballot, and if the signatories are supposed to be pleaded in advance to vote for that person the ballot secrecy would be in spirit, if not in letter, violated and that I consider to be a very strong objection to taking a course like this. I am afraid that the point about frivolity in making nominations for the highest office in the State is not a very small one, but the way to guard against it, in my opinion, does not lie in securing in advance pledges of support from people who propose or second any individual. I shall come to that point later.

Another point that occurs to me in regard to the mechanical side, as I call it, of this measure is in regard to the Returning Officer, the choice and qualifications of that officer and the appointing authority of that officer. As provided in this Bill, the officer is to be appointed by Government and I am afraid the Central Government is not the right body to make such an appointment for elections to this office. *Ex hypothesi* the Central Government would be concerned in some way or the other with the State, and as such

it would be desirable, in my opinion, to keep the Central Government as far out as possible with any concern in regard to such an election. It would be much better if the returning officer is somehow designated in the Bill itself and very little, if any, choice is left to the appointing authority even if there must be an appointing authority like the Central Government.

If you were to designate, for instance, the persons who could be chosen as Returning Officer as officers, in the sense that the Constitution provides, of Parliament, the Speaker or the Deputy-Speaker may very well be suited for such a task from their position as impartial regulator of debates and also as impartial judge of the conduct of such proceedings in this House. Or, if you choose outside the Parliamentary circle, you may designate some judicial Officer of the highest level who need not necessarily be connected with deciding on crime or disputes. My point is that instead of leaving the choice or the appointment of the Returning Officer in this election to the Government of the day it would be much better if the Bill itself designated the Returning Officer in some categories that are obvious and more suitable from the impartiality of such office, from the experience that such office necessarily imparts to the individual for conducting such matters. I say it would be much better to designate the Returning Officer or the class from which the Returning Officer should be drawn than to leave it in the choice of the Government of the day.

Reverting back to the point I made as regards the possibility of frivolity in these elections and the danger that any number of irresponsible nominations may be put forward of utterly unsuitable persons, I realize that this danger does exist, but if you wish to guard effectively against that danger occurring in any substantial measure it would be necessary, it would be desirable, and I think it will be appropriate to provide some qualification in the holder of such office rather than by this oblique method of guarding against the frivolity in putting forward nominations to this office. The Constitution does not lay down—and quite advisedly I think—any qualifications in the holder of such office.

Shri B. Das: In spite of your efforts.

Prof. K. T. Shah: I was coming to that. I have a very good memory even though a short sight. I made an effort on an earlier occasion to rectify this omission as regards choice of candidates to Parliament, but the House in its wisdom turned that proposal down and I regret that it had so happened for that to become a stronger reason in the mind, at any rate, of some of the Members of this House to decline another effort of the kind concerning the highest officer of the State, the head of the State in the country. Nevertheless, I feel that what is not specifically prohibited by the Constitution cannot be and should not be regarded as barred to be included in this legislation and so enable us to guard against a possible danger of the kind that has already been referred to. I do think it is in the best interests of the State, of the people, of the future of this country that we should have some standards, some guide, some rule of thumb in the choice of persons whom we regard as fit to be the Head of the State for the term provided by the Constitution. Therefore, I would suggest certain classes of people who from their experience may be regarded as quite fit, or at any rate better qualified than any man in the street for holding such a responsible office.

You may have a very considerable class in the shape of the present and past legislators of this country who will aggregate quite a respectable number, probably larger than the number of the electorate for this office as under the Constitution. You may also add to this those who have performed some service of a judicial, impartial character like, for instance, past judges or, for the matter of that, even present judges provided they resign their office in the Supreme Court or the High Court, or members of such bodies as the Public Service Commission, or the Election Commision, or the Tariff Board, or the Finance Commission and the like who from the very nature of their posts are invested with some judicial functions which they must exercise with impartiality and with an eye solely to the interests of the country in accordance with the Constitution.

Pandit Thakur Das Bhargava: Are we competent under the Constitution to add any qualifications here?

Prof. K. T. Shah: I said what is not specifically prohibited by the Constitution is open to us, at least in my humble judgment, to include in this clause. If you can point out that this is barred by the Constitution then of course such a course as I am suggesting, will not be possible.

Pandit Thakur Das Bhargava: As regards Members, there is specific provision; we can add qualifications. But here we cannot add.

Prof. K. T. Shah: I am aware that in regard to Members there was a specific provision which allowed us to add additional or special qualifications of the kind I was proposing on a former occasion. Here there is neither a specific article to authorize that, nor, I submit, to prohibit it. And, therefore, I venture to say that it would be a course which the House in its wisdom may accept, if it is so minded. That is why I am suggesting that if you feel that there is a danger of irresponsible nominations, of freak suggestions which may have a chance of being accepted, you would be wise to accept a suggestion of this kind and see to it that a danger of this kind is guarded against even if it is not wholly obviated.

I make this point particularly because of two reasons. The election is to be—I am speaking from memory but I think I am right—by proportional representation by means of the single transferable vote. If that is so, then in the very nature of proportional representation the danger lies that the Head of the State might be the choice of the minority. As it is, it is going to be the choice, even now—at least so I fear—of a minority. When the Constitution was going through the Assembly I had the honour to make this point while this particular article, or its corresponding number at that time in the Draft Constitution, was under consideration by the House. The system of proportional voting is very good when there are more than one seat to be filled and when, therefore, the intention is to seek the reflection of the popular opinion or the opinion of the electorate in the choice of that number. But when there is only one seat to be filled, when only one choice is to be made, the danger is much greater that you will have the first vote of a minority and the second, third, fourth or fifth choice of other people. It is true that the quota will be the majority but it will be made up of several candidates standing and they get second, third or fourth preferences—the lesser and lesser choice of a larger and larger number—which means that the Head of the State will not have the vote of a clear, absolute majority.

I want this point to be seriously considered by the House. It is not a merely debating point I am making. I would like to invite attention to the fact that even the electorate which is to elect the President will consist of people elected—the present composition already indicates that—not by an absolute majority of the country even though the elections have taken place on adult franchise but perhaps of a minority varying from let us say 50 per cent. to 25 per cent. The fact is that there have been many constituencies where the candidates have, as it were, split the votes of others and the successful candidate represented only a small minority. Here there is an instance of 165,000 votes in a constituency and the candidate elected was one carrying only 65,000 votes whereas 100,000 votes were against him. My point is, therefore, that, as it is, even if the choice was by an absolute majority, the danger is considerable when the Head of the State will be the choice of a minority of the people as reflected by a majority of electors of that office.

Mr. Speaker: I am sorry to interfere. I do not see how this point is now open for argument in view of the clear provisions of clause (3) of article 55, which says that the election of the President shall be held in accordance with the system of proportional representation. We have to follow that system now.

Prof. K. T. Shah: I am not questioning that article at all. All I am saying is to point out that that article being there, the only way to secure, as I conceive it, the really proper choice backed by a real majority would be by providing some qualifications. That is the point that I was making, Sir, so that we would have at least some guarantee that the persons elected even by a minority would have certain basic qualifications. That is my point. It was not that I was questioning at all the procedure laid down by the Constitution. I cannot do so and it will not be allowed. I am trying, if I may use that expression, to get round it without breaking it so that we may secure the objective without in any way going against the letter or the mechanical procedure provided by the Act. I hope I make myself clear. This point is more important because the constitution as we have made it, presupposes, if not in the letter of it, at least in the spirit, that the Government or the parties in power, both at the Centre and in the Provinces, would be more or less the same and that, therefore, the supporters of these parties helping to elect the head of the State would enable that State also indirectly to be in sympathy with those at the helm of the actual Government of the State. It may quite possibly be, and we see symptoms already, that that situation may not continue very long and that it may be a possibility that the majority of electors in this

election may not have the same party complexion as the Government at the Centre. The President has to deal with the Central Government primarily and though we have followed the model which is partly British in origin and partly American in complexion, I still think that the place of the President under the Constitution in this country is such that he must be not only impartial so far as the day-to-day conduct of the administration is concerned but he can be also a guide and an adviser at critical moments and if that facet may not have the full backing of the people, as I conceive it, then the danger may be that his advice may be treated very lightly. This again is a point of no immediate necessity perhaps from this Bill but of far reaching importance which while we are making a provision for the election of the President, we ought to guard against, as I conceive it. I would, therefore, suggest that this matter requires more careful consideration than has so far been given or than the provisions of the Bill before us. It is a matter which can be provided for now only by some amendment of this Bill and at the appropriate moment, I will try and bring forward those amendments, at any rate, to embody the ideas I have tried to put before the House, but I would like it to be understood that it should not be considered merely from the mechanical side, as giving effect to the articles of the Constitution which have been quoted in the Statement of Objects and Reasons. It is much more important than that; it is going to relate to the future of this country and the working of the Constitution far more closely than seems to have been realized by the drafters of this Bill and accordingly I suggest that the points I have made might be considered carefully by the authors and sponsors of the measure and that the amendments, if agreed to, may be incorporated so that some of the dangers here foreseen might be guarded against.

Shri B. Das: When we were passing the articles about the election of the President in the Constituent Assembly, we did not expect that the bureaucracy in the Government of India will incorporate so many legalistic ideas in the legislation that they will advise the Law Minister to bring forward before the House. I think the President is the Head of the State and he should not be harassed at his election by the bureaucratic and legalistic interpretation of corrupt practices and other things. Therefore, I am at one with my friends, Mr. Kamath and Prof. Shah that the Speaker of Parliament, who will guide the future of democracy in India, shall be the Head of the institution which shall conduct the election of the President or the Vice-President, and that if any election should take place the hon. the Speaker of Parliament shall himself be the Returning Officer and the officers of Parliament shall be his assistants. I am in full sympathy with what Prof. Shah said. He repeated some of the theories in the Constituent Assembly. I would not like that the President of India—he is the Head of the State—should be subjected to the squabble of criminal lawyers and legalistic-minded lawyers. I see the point which Prof. Shah has raised, namely that any fool can think that he can be the President of India, but only the Speaker of Parliament can regulate...

Shri Kamath: He cannot regulate fools.

Mr. Speaker: I may just point out this. I do not want to participate in this debate. It is for the House to decide it. But I should like to point out one thing and that is whether it is advisable to bring the Speaker of Parliament in any electoral machinery. The point which strikes me is this: We are providing in this Bill for references in all election matters to the Supreme Court. One of the points may as well be that the Returning Officer made a mistake or did some other thing. It may be true or it may be false. Some factual allegations may also be made in respect of that, including charges of partiality or some such thing. Is it advisable to bring in the Speaker in matters of controversy?

Hon. Members: Quite right.

Mr. Speaker: That is the only point which hon. Members may consider before they come to any conclusion on this point.

Shri Naziruddin Ahmad: Some officer of Parliament, it should be.

Mr. Speaker: That is a different thing. I shall have nothing to say in respect of that.

Shri B. Das: What I had in my mind when I made that suggestion that if democracy is to be perfected, it must be perfected through Parliament. If Parliament is not perfect, if the Speaker does not interpret democracy in the correct sense, how can our people attain perfect democracy? It is in that spirit that I made my proposal before the House. At the present moment I am not in a position to amend my thoughts; nor do I feel that I have said something which is very incorrect or which is not conducive to the best interests of democracy.

[Shri B. Das]

I welcome my hon. friend the Law Minister as my comrade in this House. He was a very popular and friendly Governor in Orissa. We are now having democracy. Governors can descend and become our comrades and colleagues in this House.

Shri Kamath: He has ascended, not descended.

Shri B. Das: That is a valuable gain to us. I would request the Law Minister to tell us to what extent the Election Commission was consulted. Will the hon. Law Minister circulate to the Members of this House the memorandum which the Election Commission drafted on the election of the President. No documents have been supplied to us. I do not know whether the Chief Election Commissioner is a lawyer. I think he is an I.C.S. officer. He was a district judge in Bengal. I do not know whether his mind revolves round the legalistic interpretations of corrupt practices and all that. Are we to think of corrupt practices simultaneously with the election of our President who has to guide the destinies of the State for the next five years and maintain the sovereignty of the State? Is sovereignty the watch-word of corruption? This Election Commission is a new institution which we have introduced in the Constitution. It has not yet perfected. I have great sympathy with my hon. friend Mr. Kamath; I did not meet with such difficulties with the Returning Officers. But, I did come across certain difficulties. The Election Commission leaves too much to the Returning Officers to interpret. They are petty officers of the States. They have not got the calibre or the capacity to understand what this House means by the new Elections and how the Election Commission interprets the intentions of this House. I would request you and my colleagues to postpone discussion of this Bill regarding the election of the President and Vice-President. The hon. Law Minister should take us into confidence and circulate the opinion of the Election Commission and his considered advice to the Government as to how the President should be elected.

If I have made an error in suggesting that the hon. Speaker of Parliament should be the main spirit in the matter of the election of the President, I was interested in only one thing. The hon. Speaker of the House is there to preserve the rights and privileges of the people, particularly, of the Members of this House. The Election Commission—the Chief Election Commissioner may be a lawyer; he need not be a lawyer—being a part of the old bureaucratic system under which we are still governed though we are a sovereign nation, they are trying to bring at every stage the attitude of mind that is prevalent in England and in the European countries. I am not a European. I am an Indian. I do not like to follow at every stage whatever is practised in foreign European countries. I do appeal to the House that we should not be in a hurry. All the Members of Parliament have not been elected. The members of the Council of States have yet to be elected. Let us wait. Let the Government take us into full confidence and let my hon. friend the Law Minister explain to us whether his Ministry has an independent approach or is only following or camouflaging chapters from foreign Constitutions as to how the President should be elected and whether that is suited to our atmosphere here. I do not like that we should insult the President, whoever he may be, by introducing clauses on corrupt practices and by introducing the Supreme Court too much. I was also present in the other House when this question was discussed. I am one of those who are not very fond of lawyers and judicial courts. I know how judges and the judicial courts have misinterpreted the Constitution and harassed Congress Governments in various parts of the country by wrong interpretation...

Shri Naziruddin Ahmad: On a point of order, Sir. No remarks should be made against the judiciary.

Mr. Speaker: Order, order. The hon. Member should not say that they made wrong interpretations intentionally. In fact, democracy can be stabilised only by an independent and bold judiciary. The hon. Member will not be in order in making that remark.

Shri B. Das: I bow to you, Sir. The only thing that I wanted to submit was that we are being harassed in the administration in various parts of the country by people who were loyalists in the British days and who have become loyalists today. I doubt their *bona fides*. I am an honest man and I speak the truth, what my soul feels as to how the judiciary goes astray at a critical moment of my nation's existence.

Pandit Thakur Das Bhargava: Who doubts that?

Shri B. Das: Thank you; an eminent lawyer has supported it. I appeal to the conscience of this House and to the conscience of all good people. Do not think of corrupt practices

and Election Tribunals in the matter of the election of the President. You can introduce them in other places. My hon. friend Mr. Kamath can fight with the candidate who has defeated him and I can fight with one whom I have defeated, and bring out all corrupt practices. But, at every stage, the legal advisers of the Law Ministry and the Election Commission should not give their advice in the old bureaucratic way and introduce evil intentions and corrupt practices even in the President's election. I agree that the Supreme Court should be given a certain part. That provision was introduced; but at that time we had no idea of so many cases springing up before the Supreme Court. It will be disgraceful for our existence if hundreds of people should stand for Presidential election and take the cases to the Supreme Court. In these days of black-marketing, people have enough money and they may take the cases to the Supreme Court so that the lawyers in this House and outside may profit. But, our national dignity and honour will suffer.

Pandit Thakur Das Bhargava: I agree with those who have preceded me in submitting for your consideration that so far as clause 3 is concerned, we should substitute in the place of "officer of Government", some other authority who should be in charge as Returning Officer for the high office of the President.

It does not need much argument to convince that as the highest office in the State is left to election, we should see that the highest in the land is appointed to return such a candidate. Now, the question arises as to who that authority is to whom we can look for the performance of this duty. I would submit that as article 66 prescribes the manner in which the election of the Vice-President should be held as also the formation of the electoral college, it appears that both Houses of Parliament must have a joint meeting for the election of the Vice-President. Under such circumstances, when there is to be a joint meeting of both Houses of Parliament, we should think of none but the highest in the land to preside and hold the elections. After hearing what has fallen from you, Sir, I have begun to doubt if I should suggest that only the Speaker of Parliament should be that person.

Dr. Pattabhi: That is provided in the Constitution itself, that at the Joint meeting of the Houses, the Speaker presides.

Mr. Speaker: No, what I had in mind was the executive duty of the Returning Officer and not his presiding at the meeting.

Pandit Thakur Das Bhargava: As a matter of fact, it is not a question of presiding over a joint meeting. Whatever it be, I would submit that if the House is of the opinion that the position of the Speaker is so sacrosanct that we should not bring him in any manner before the Supreme Court or any court, then the Deputy-Speaker may perform this task. I am also very jealous of the dignity of the Speaker of the House of the People and, therefore, I submit that I will not agree to his impartiality being questioned by anybody or before any court or before any tribunal or any person. Therefore, in the circumstances, I am inclined to think that the best thing that we can do is to have the Deputy-Speaker for performing this work. I do not know what is in the mind of the hon. Minister in charge of the Bill; but I should think that the election will take place like this. A joint meeting of the House of the People and of the Council of States will be held in Delhi and in the various provinces or States, the members of the respective Legislatures will assemble in a meeting and cast their votes. I do not know what is the proposal of the Government, but if this is the way in which the election is to be held, I respectfully submit that the Deputy-Speakers in the State Legislatures could be regarded as the Officers who will conduct the elections, and here in this House the Deputy-Speaker of the House of the People will be the proper person to perform this task. In a matter of this importance, I do not think we can appoint any other person to conduct the election. If this proposal is not accepted, then the Election Commissioner must be the person to hold the election. But my own view is that we would be well advised in getting the work done through the Deputy-Speaker of the House of the People and the Deputy-Speakers of the State Legislatures.

Another point which was made by one of the speakers here is about rule 5(c). As far as this rule is concerned, I submit that when we were enacting the Representation of the People Act, we considered this point and felt that so far as nominations were concerned, they should be finalised before the elections took place. At that time myself and a major portion of the House were of the opinion that this should not be referred to the Election Tribunal, but it should be decided beforehand. But ultimately, this suggestion was not accepted. My pre-

[Pandit Thakur Das Bhargawa]

sent submission is that we will lose nothing if we enact now that so far as the nomination part of the elections is concerned, we should not refer it to the Election Tribunal but should finalise it before the election takes place. Ultimately if the matter goes to the Election Tribunal it may hold that the nominations were improper or that a proper candidate was not allowed to be nominated and so the whole matter has to be done over again. We should guard ourselves against that, and my own view is that even now we may attempt a modification of the rules in the Representation of the People Act. This would be a very good suggestion and I very strongly support it.

In this Bill I do not find any provision so far as secret ballot is concerned.

Shri T. Husain: It is already there in the Constitution.

Pandit Thakur Das Bhargava: May be. Then it is all right.

As regards the qualifications for the President, I would humbly submit that I have my doubts if we can add to the qualifications now, after we have passed the Constitution.

Considering all these points and the other matters which are coming up for discussion, I submit that the hon. Minister may kindly appoint a small Select Committee to go into the question. After all there is no hurry about this mater.

Shri T. Husain: Time is short.

Pandit Thakur Das Bhargava: Time is not short. As a matter of fact, this election will take place not very early, may be in April or May.

Shri T. Husain: But our life is short.

Pandit Thakur Das Bhargava: I can pray for your longevity.

My submission is that nothing will be lost if a small Select Committee is appointed and it goes into this matter and in two or three day's time submits its report before you for the consideration of the House. This matter is of the highest importance and after going through the intricate provisions about election petitions, corrupt practices and so on, I feel just like my hon friend Mr. Das here, that we should see that these details which we provided in the Representation of the People Act should not be there in this Bill. I know that disputes can occur and for that we have already provided in article 71 of the Constitution that they should be inquired into and decided by the Supreme Court. All the same, I would rather like that the election was conducted in such a manner that some of the details which are given in this Bill were avoided. I do not visualise that in the election of the President these things will occur. But we have to provide against all possibilities, though I do not at present know how to avoid these. I want time for that and Members of this House may be given some time to think over this problem and submit a report for the consideration of the House.

Dr. Pattabhi: I would like to say a word or two on what my hon. friend Prof. Shah has said. He is fully aware of the limitations under which he suffers, but he wanted to get round the Act. But you cannot get round the Act or the Constitution by any possible means. He must get into it. There is no way out of it. The Act is there and the Bill that is now under consideration is a Bill which is within the four corners of the Act that has been passed—the Constitution Act. Article 58 says:

> (1) No person shall be eligible for election as President unless he—
>
> (a) is a citizen of India,
>
> (b) has completed the age of thirty-five years, and
>
> (c) is qualified for election as a member of the House of the People.

4 P.M.

Now, these three qualifications laid down in the Constitution are there, and it is a person who fulfils these three qualifications that becomes the Prime Minister of India. If these are the three limitations which are observed in the selection and election of the Prime Minister of India, then there is no reason why we should go beyond these three qualifications in the selection of the President. The President is the officer in whose name the writ runs. But the Prime Minister is the person who administers and governs the whole country. Therefore, there is no point in raising this issue at this stage. We are considering this Bill and by no possible stretch of imagination can we think of either getting over or getting under or getting round the Constitution which governs us entirely. Now that being the case, there is the other point which is being discussed just now *viz.*, the Returning Officer.

Somebody said the Speaker must be elected and it is after the Speaker that the Deputy-Speaker comes in. That is all right but the Vice-President being the Chairman of the Upper House, there is no President there other than the Vice-President. If you suggest the Vice-President, he is the Chairman of the Upper House. The Vice-President is to be elected at a joint meeting of the two Houses. I do not know how we shall be justified in calling this meeting not a meeting in the ordinary sense. A joint meeting is a joint meeting and the joint meeting is to be presided over by the Speaker of the House of the People if I remember aright. That being the case I cannot understand how either a sense of propriety or delicacy or modesty can prevent the Speaker from presiding and conducting the election of the Vice-President. Willy-nilly he must do it and there is no help to it so far as I understand the law but I am not a lawyer or a constitutionalist. I am a man of commonsense of the world as the world goes and I understood it that way.

Shri T. Husain: On a point of information. May I know when a joint session of the House of the People and the Council of States is held for the purpose of election of the Vice-President, who should preside—whether it is the Speaker or the Returning Officer? As it is not a session but only a meeting for election, the Returning Officer presides. May I know whether it is correct?

Dr. Pattabhi: Absolutely wrong. A joint meeting is a joint meeting. It must have its Chairman. The Chairman is already prescribed by law. Therefore whatever be the purpose for which the joint meeting is held, whether it be to debate any particular questions on which the Upper House and Lower House have differed or whether it is for any other purpose, the joint meeting shall be presided over by the Speaker of the Lower House.

Shri Naziruddin Ahmad: With regard to the last point dealt with by Dr. Pattabhi, I should think that the Speaker should not be placed in charge of the election. To preside at a meeting is one thing and to preside over the election is a different thing. In various controversial matters, the Polling Officer or Presiding Officer will have to give a ruling and his ruling would be questioned in court.

Dr. Pattabhi: May I request the Speaker to ask my hon. friend to interpret it in terms of the wording of the Act instead of his merely speaking from memory?

Shri Naziruddin Ahmad: Various other points have been raised in this debate. Mr. Venkataraman said that he was aggrieved with the provision that any person can apply to set aside an election. All that I can say is that this is in conformity with sound practice everywhere. Every person in India, if he is a citizen, is interested in the election of the President and as such he has a clear *locus standi*. It does not matter whether the defeated candidate is willing or not. It affects the right of every citizen of India and any citizen shall have the right to apply. Then he raised another question that the defeated candidate should never be declared elected. Supposing the defeated candidate is defeated by one vote and it is found that about 100 votes were illegally cast in favour of the successful candidate, then there being no other factors, all that the Supreme Court has to do is to declare the defeated candidate duly elected. There is nothing wrong and objectionable in this.

Then Mr. Venkataraman stated that there is the danger of too many candidates. I fear that this danger is real—the danger of democracy and the taste of notoriety of standing as a candidate for Presidentship may be too tempting for many citizens and many might be coming forward to stand as candidates. It may run to thousands. All that is necessary is that he should be a qualified citizen as laid down in the Constitution and he can apply. So we must have some machinery to check this tendency of overcrowding in the matter of these elections. After all the best candidates should contest and not anybody and everybody. The remedy I should suggest is that just like any other election, the candidate should be required to make a deposit money. If he fails to reach a standard of vote say one-tenth, he should forfeit his deposit money. What is not humiliating to us candidates for the House of the People and for State Assemblies should not be derogatory to the candidate for Presidentship. After all the President is an ordinary citizen. The President need not be an extraordinary person. I therefore submit that this qualification should be there to prevent overcrowding in the matter of candidates.

[Shri Naziruddin Ahmad]

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Other matters have been dealt with by various speakers. I therefore submit that these matters should be carefully considered and the discussion postponed for full consideration of the points raised.

Shri Joachim Alva (Bombay): When this House is considering one of the most important Bills in the history of this House, I find there has been a thin attendance almost like that of the House of Commons when it debated an Indian affair in the old days. I consider this very important in the sense that we are trying to form a machinery by which we shall elect the President, by which we shall elect the Vice-President and these two persons—not in a manner as described by my friend Mr. Kamath —will be the guardians of the integrity and security of our future State. There are such persons as the first Governor-General, a man of great patriotism and foresight, there is the first President to whom we pay due respect and we do hope that the future President or the next President shall be a man of integrity throughout the country, a man who will uphold our Constitution, who above all, in times of peril shall call upon the right Prime Minister irrespective of party to recommend a list of persons to form his Ministry. Those will be the powers of the President and that will be the time when the mettle of the President shall be tested and we shall not let the ordinary gallery or the market place to fill up the place of President.

Mr. Venkataraman said that there should be at least ten Members or more for a nomination to be held valid for a candidate to the office of President or Vice-President. I shall say it should be 501 for the simple reason that when we have a few Members of this House—when we have even one or two Members among ourselves who shall sublet our premises, there shall be ten Members who shall even sublet the State. Will there not be ten Members in this House whose spirit will be willing to accept a bribe of ten thousand so that such a nomination may be made when the whole future of the State is at stake? This matter shall not be taken in the spirit of lightheartedness as my friend takes it for the simple reason that even the framers of the American Constitution have had to face very great difficulties. The framers of the American Constitution said it was a very serious matter and what they framed had to be set aside by one of the Amendments. The Twelfth Amendment to the American Constitution had to be passed because there was a loophole because they found that the Vice-President was somebody who was not in consonance or in uniformity with the wishes of the President.

Shri Kamath: We have our own Constitution here.

Shri Joachim Alva: Why do you interrupt me?

Mr. Chairman: Order, order. Let him proceed.

Shri Joachim Alva: This is not a matter to be treated with so much childishness.

Shri Kamath: I object to his remark that it is childishness. I only pointed out, when he said the American Constitution had loopholes, that we had our own Constitution—let him point out the loopholes in it.

Mr. Chairman: I would request hon. Members not to address each other but to address the Chair.

Shri Joachim Alva: This Bill should not be rushed through as perhaps we did with the Representation of the People Bill. We set our eyes on the elections at that time; everyone was in a hurry, everybody wanted that the Bill should be passed into law. We have seen to our dismay, or to the dismay of my friend who has been interrupting me, how serious some loopholes have been working against ourselves and we shall not perhaps frame a law and pass it in this House in which such loopholes may creep in.

I will tax the patience of the House only for five minutes. This is a book on the American Constitutional system. It says:

> "The question of the most desirable method of choosing the President and Vice-President was one which gave considerable difficulty to the framers of the Constitution. The two most obvious methods—election by the people and election by Congress—were both unsatisfactory. Most of the members of the Convention of 1787 had no great confidence in the political capacity of the people to make intelligently such a momentous choice as that of the chief magistrate of the country. Moreover, the lack of means of creating an informed public opinion upon such a question made

this method seem to them hardly feasible. The delegates from the small states feared that this method of election would give the balance of power to the larger and more populous states. On the other hand, the method of election by Congress was deemed unsatisfactory because it violated the principle of separation of powers and might upset the balance and co-ordination which it was thought should exist between the executive and legislative departments. The framers of the Constitution finally hit upon a method of choosing the President which they thought avoided the disadvantages of both of those previously mentioned."

Then it goes on:

"The plan thus provided by the original Constitution contained certain defects which were quickly brought to light. Thus, it was possible under this plan for a Vice-President to be chosen who did not have a majority of the electoral votes."

Shri Kamath: On a point of order. So long as our Constitution is in force how is all this relevant? How does it apply?

Shri Joachim Alva: To draft our Constitution we have freely borrowed from the Constitutions of the world, especially that of the U.S.A. The original framers of the American Constitution saw many difficulties arise and they tried to avoid them. But despite that many defects had crept in by the time the Twelfth Amendment was moved and the Twelfth Amendment did away with some of the defects which the framers themselves were unable to avoid. Today we are faced with the same difficulty. We shall not in a light-hearted manner pass this Bill; we shall seriously ponder over it because we shall not elect a President who shall be the victim of political partisanship. Neither shall we elect a President who shall be merely from the market place. We shall have a man of great dignity, a man of great integrity, a man who places the country above everything else. Otherwise, all the labours and efforts of our Constitution-framers shall be set at naught. Today if we take the matter lightheartedly we shall have to rue later and those who come after us shall have to amend the law to remove the defects that have crept in. As I said earlier the Prime Minister will be called upon by the President to form a Cabinet and in times of great crisis, especially in times of internal crisis or external aggression, the President will have to wield great power. Take just one example, the election of the Speaker of this House. A democratic country expected that the Speaker of the House should be returned unopposed but here another candidate came and gave him such a hard time that it was right and proper that the electors returned him with such a thumping majority. If I am not mistaken the Speaker got the biggest majority on record. That is a high degree of commonsense displayed by the electorate. But the opponent did not show that commonsense for he did not believe that the first Speaker of this House should have been returned unopposed and a great tradition created that the Speaker of this House shall be unchallenged as long as he possessed the confidence of this House.

We shall have to avoid all loopholes in framing this law. My friend suggested that the nomination in this case should be by ten Members. I say that the Presidential nomination should be made by 101 Members. What is easy for ten men to do will not be easy for 101 men. Those ten men may perhaps willingly and consciously get into the hands of unscrupulous persons but the 101 men shall not be so and they shall say, "We shall have this man as President".

I shall not say more. But, as I said earlier, if there are one or two among us who are quite willing to sublet their houses, there shall be men enough who shall sublet the State. These are the dangers to be guarded against. I do hope that at the proper time the hon. Minister will give us an opportunity of going into greater details of the Bill in order to try to avoid these dangers.

श्री भट्ट : इस बिल के बारे में मेरे पिछले दोस्त ने बड़े जोशो खरोश के साथ बातें कही हैं और उन्होंने यह चाहा है कि इस पर बहुत संजीदगी के साथ विचार किया जाय और समय दिया जाय । लेकिन हमारे कानून मन्त्री यह चाहते हैं कि इसको जितना जल्दी हो सके पास किया जाय और अगर हो सके तो इसको कल ही पास कर दिया जाय । आपने भी अपने वक्तव्य में कहा है कि हो सके तो इसको सिलेक्ट कमेटी के सामने पेश किया जाय । लेकिन मालूम

[श्री भट्ट]

नहीं कि हमारे माननीय मन्त्री जी के दिल में क्या है और न मालूम इस पर कल कितने संशोधन होंगे और उन पर किस रीति से विचार किया जायगा । कुछ भी हो मैं यह सुझाने वाला था और मैं पहले से ही यह कहना चाहता हूं कि अगर यह बिल सिलेक्ट कमेटी के सामने न रखा जाय तो इस हाउस की एक इनफारमल मीटिंग (Informal meeting) की जाय और उसके सामने इसको जरूर रखा जाना चाहिये । एक दो घंटे बहस होकर तो यह चीज खत्म हो नहीं सकती है । अगर कई घंटे तक सब दोस्त बैठकर इस पर इनफारमल तरीके से विचार कर लेंगे तो हम इसको मुकम्मिल करने में ज्यादा सफल होंगे । इस बिल के बारे में कई तरह से नुक्ता-चीनी की गई है । एक तरफ हम यह मानते हैं कि यह एक सादा चीज है, लेकिन दूसरी तरफ यह मानते हैं कि इस पर सारे हिन्दुस्तान का दारोमदार है । मैं इतनी गम्भीरता से और इतना जल्दी जल्दी तो नहीं बोल सकता जैसे कि मेरे भाई अलवा जी बोले हैं और मैं यह भी नहीं मानता हूं कि यह कोई इतना बड़ा बिल है कि जिस पर बहुत चिन्ता के साथ विचार किया जाय । आम तौर से हमें कोई ऐसा तरीका तै करना है जिससे कि हम अपने राष्ट्र के प्रमुख और उपप्रमुख का चुनाव कर सकें । इन में दो तीन बातें हम को साफ़ कर देनी चाहिए । वैसे तो यह बिल बहुत छोटा है । इसका सर तो छोटा है पर इसकी जो पगड़ी आने वाली है वह बहुत बड़ी होगी । यह माना गया है कि हमारे ला डिपार्टमेंट को इतना समय नहीं मिला कि वह नियमों को भी ब में शामिल कर देता । नियमों को शामिल कर देने में बहुत दिक्कत तो नहीं थी । कई जगह तो उन्होंने नियम शामिल कर दिये हैं पर कई जगह छोड़ दिये हैं । क्यों छोड़ दिये हैं, यह उनकी मर्जी पर है, लेकिन शायद यह सोचा गया हो कि कुछ समय के बाद इसको ठीक कर लें और फिर नियमों को लावें । भाई कामथ ने एक बात बताई है और वह ठीक बताई है कि हमारे इलेक्शन कमिश्नर (Election Commissioner) साहब ने नियमों के अन्दर आखिरी दम तक संशोधन करना ही मुनासिब समझा और वह संशोधन यहां तक हुए कि जिस संशोधन के बारे में मुझे मालूम था लेकिन उस के बारे में रिटर्निंग आफिसर (Returning Officer) को मालूम नहीं था कि यह संशोधन हुआ था या नहीं । जब उनको बताया जाता है कि यह संशोधन हुआ है और उन के असिस्टेंट (Assistant) ढूंढ़ते हैं तो मालूम होता है कि यह संशोधन हुआ है । तो इस रीति से तो कार्रवाई नहीं होनी चाहिये । इस बिल के लिये तो काफी समय है । इस में जो नियम या उपनियम बनें उन के बारे में यह न हो कि वह आखिरी मौके तक बनते रहें । मैं समझता हूं कि यह हो सकता है कि कुछ नियम जैसे नामिनेशन (Nomination) के बारे में मैनर (manner), फार्म (form) और प्रोसीजर (Procedure) के बारे में हम यहां दाखिल कर सकते हैं । लेकिन उनको क्यों छोड़ दिया गया है यह मेरी समझ में नहीं आता । लेकिन अगर हमारे माननीय मंत्री जी इनफारमल मीटिंग करेंगे तो उनको यह यकीन हो जायगा कि वह इन नियमों को जरूर शामिल कर सकते हैं । और इसका तो ढांचा बना बनाया पड़ा

है । यह नियम रिप्रेजेंटेशन आफ पीपिल्स ऐक्ट सन १९५१ (Representation of Peoples Act, 1951) में दिये गये हैं। इस में कोई नया दिमाग लगाने की बात नहीं है । उन नियमों को इसके साथ लाने से सारी चीज एक ही किताब में हमारे सामने आ जायगी । अगर ऐसा नहीं होगा तो एक किताब के बजाय हमको तीन चार किताबें ढूंढनी पड़ेंगी कि यह नियम कब बना और कब नहीं बना, और फिर इलेक्शन मैन्युअल (Election Manual) निकालना पड़ेगा । यह सब करने के बजाय मैं यह सही मानता हूं कि अगर हो सके तो इस बिल के साथ साथ हम नियम भी रख लें और उन को इस बिल का अंग बना लें । इसलिये मैं चाहता हूं कि इस बिल को सूत्र रूप में न बना कर, जिसके कि अलग अलग भाष्य करने पड़ें, हम इस को एक सम्पूर्ण चीज बना लें ।

अब इस बात की हमें चिन्ता हो रही है कि हर कोई हमारा राष्ट्र प्रमुख बनने को तैयार हो जायगा । और हर एक तैयार हो सकता है क्योंकि हर आदमी को यह उम्मीद रहती है कि मैं क्यों न राष्ट्र का प्रमुख बनूं और हम तो यह मानते हैं कि हमारे राष्ट्र का छोटे से छोटा आदमी भी हमारा राष्ट्र प्रमुख बन सकता है । अगर हमको उस में विश्वास हो । और उसमें उसके लिए काबिलियत हो । सिर्फ, इतना नहीं हो सकता कि अगर कोई हरिजन का लड़का या लड़की है तो इसी कारण उस को राष्ट्र प्रमुख बना दिया जायगा । यह तो कभी नहीं हो सकता । लेकिन अगर उस में योग्यता है तो चाहे वह झोंपड़ी में रहने वाला हो वह हमारे ऊपर आकर बैठेगा और राष्ट्रभवन में विराजमान हो सकेगा । लेकिन सवाल यह है कि ऐसा कौन आदमी हो सकता है जो कि इसके लिये अपना उम्मीदवारी का परचा दाखिल कर सके । उसके लिये जो योग्यता हमारे संविधान में बताई गई है उसमें तो रद्दोबदल नहीं हो सकती । मैंने रिप्रेजेंटेशन आफ पीपल्स ऐक्ट के अनुसार डिस्क्वालीफिकेशन (disqualification) के लिये संशोधन दिया है । संविधान की धारा ८४ में क्या है और १०२ में क्या है इन सब चीजों को समझ लेना चाहिये । लेकिन उसके आगे बढ़कर हमारे भाई के० टी० शाह ने और क्वालीफिकेशन्स बतलाई हैं । लेकिन मैं समझता हूं कि एक आदमी जो कि यहां पार्लियामेंट में आकर बैठ सकता है और हमारा प्रधान मन्त्री बन सकता है, वह हमारा राष्ट्र प्रमुख भी बन सकता है । इसके लिये विशेष योग्यता की जरूरत नहीं है । जैसा कि डा० पट्टाभी साहब ने कहा है ।

अब सवाल यह है कि वह अपना उम्मीदवारी का परचा कैसे दाखिल करे । कोई सुझाते हैं कि एक प्रोप्रोजर (Proposer) हो और एक सैकिंडर (Seconder) हो । हमारे भाई वेंकटारमन कहते हैं कि दस आदमी सुझाव दें । उनका कहना है कि अगर किसी की उम्मीदवारी का दस आदमी सुझाव देंगे तो उसे माना जायगा । अब भाई अलवा जी कहते हैं कि ५०१ या १००१ आदमी सुझाव दें । अगर दस या पचास की सुझाव की बात भी मान ली जाय, हो सकता है कि उसको हर प्रदेश की धारा सभा से एक एक सदस्य ऐसा मिल जाय जो उसका सुझाव दे तो वह आ सकता है । सब को चिन्ता यह है कि गलत उम्मीदवारों को कैसे टाला जाय । क्योंकि हर

[श्री भट्ट]

विधान सभा में एक एक आदमी तो उसे ऐसा मिल ही सकता है जिसका हस्ताक्षर वह प्राप्त कर सकता है और वह इस तरह से न्यूसेंस वेल्यू (Nuisance value) भी रख सकता है। तो उसको टाला कैसे जाय। हमारे भाई के० टी० शाह बतलाते हैं कि अगर आप १० या १५ आदमी रखोगे तो इसमें बैलट का महत्व चला जायगा क्योंकि इससे यह तो मालूम हो ही जायगा कि यह दस या पच्चीस आदमी तो इसके पक्ष में हैं ही। मैं उनको बतलाना चाहता हूं कि अगर एक उम्मीदवार अपने दस उम्मीदवारी के परचे दाखिल करता है तो क्या होता है। उस हालत में भी तो यह मालूम हो जाता है कि इतने आदमी तो इसके पक्ष के हैं। पर यह तो प्रजातन्त्र में होता ही है। इसके अलावा भी हम जानते हैं कि कौन सी पार्टी किस को सपोर्ट कर रही है। इसको तो छिपाया नहीं जा सकता है।

अमेरिका में तो यह सिस्टम (System) दाखिल हो गया है, वहां कोई कानून ऐसा नहीं है लेकिन पार्टी नामिनेशन्स आर एक्सेप्टेड (Party Nominations are accepted) वहां यह कनवेंशन से चलता है। अगर पार्टी का नामिनेशन नहीं होता है तो कोई और दूसरा नामिनेट ही नहीं हो सकता है। वहां इस तरह की हालत है। लेकिन हमारे यहां इतनी सख्त कैद नहीं रखनी चाहिये कि पार्टी का ही आदमी नामिनेट हो। अगर कोई इंडिपेंडेंट (independent) आदमी हो और उसमें अगर योग्यता होगी तो धारा सभा के सदस्य उसको नामजद करेंगे। हम तो जितनी ढील दे सकें जितनी आजादी हम दे सकें उतनी आजादी हमें देनी चाहिये।

अब आप यह कहते हैं कि डिपाजिट (deposit) के जरिय हम रुकावट डाल सकते हैं और यह कहें कि सौ रुपया, पांच सौ रुपया, हजार रुपया डिपाजिट रखो और अगर इतने वोट (vote) हासिल नहीं किये, दन फोर्थ आफ दी टोटल वोट्स पोल्ड (one-fourth of the total votes polled) हासिल नहीं किये तो वह रुपया जब्त हो जायगा। तो ऐसे रुपये देने वाले भी निकल आते हैं, गड़बड़ी करने के लिए रुपये देने वाले भी मिल जाते हैं। कोई पूछते हैं कि फिर मैं क्या सुझाता हूं। जरूर मैं, इसके लिये सुझाता हूं। वैसे तो एक आदमी ने मुझ से कहा कि उस आदमी को तीन महीने के लिये आसान कैद दी जाय अगर उसको आवश्यक वोट न मिले तो। तो यह तो एक हंसी की बात है। मैं एक दूसरी बात कह रहा हूं जिस को आप ठीक समझें तो उस पर जरूर गौर करें, और वह यह है कि अगर एक आदमी चतुर्थांश से कम वोट हासिल करे तो वह आयन्दा इस इलैक्शन में खड़ा न हो सके। (He is not eligible for the next election if he does not secure one-fourth of the votes polled.) अगर इस प्रकार से हम कुछ कैद रखें, इस तरह की कुछ पाबन्दी रखें, तो शायद हम फालतू आदमी को रोक सकते हैं। लेकिन इस तरह से रोकना या न रोकना, यह तो एक सोचने की बात है। इसलिये मैं यह जरूर कहता हूं कि इसमें प्रोपोजर (proposer) एक हो और सैकिंडर (seconder) एक हो, इसमें ही हमें संतोष मानना चाहिये और जैसा

बिल रखा गया है और उस में जो डिपाजिट के लिये नहीं रखा गया है, इसका कारण यही है कि हम प्रमुख और उप-प्रमुख का चुनाव कर रहे हैं उनकी हैसियत का अपमान न हो। शायद इसीलिये यह रखा गया हो। लेकिन प्रजातन्त्र की दृष्टि से तो यह अच्छा होता कि जिस रीति से सब के लिये डिपाजिट का कायदा था उसी तरह यहां भी डिपाजिट का कायदा रख दिया जाता। मेरी समझ में ऐसा करना कोई गैर मुनासिब नहीं होता।

Shri B. Das: We can get a saint for the Presidentship and collect the money for his deposit.

श्री भट्ट : हमारे भाई रोहिणी कुमार जी ने यह कहा था कि यह जो टाइमटेबुल (Time table) नामिनेशन का, स्क्रूटिनी (scrutiny) का और विथड्रावल (withdrawal) का बनाया है, यह बहुत ढीला है, इसमें बहुत दिन लग जाते हैं। मैं कहता हूं कि कई जगहें ऐसी हैं जहां कि अगर आप इतने दिन नहीं देते हैं तो उसके बगैर काम नहीं चल सकता है, और जितना सख्त हम बना सकते थे उसकी कोशिश हम ने रिप्रेजेंटेशन पीपुल्स बिल में की थी। अब उसी के अनुसार हम कर रहे हैं। इसमें कोई गैर मुनासिब चीज नहीं मालूम होती है।

अब रिटर्निंग अफ़सर (Returning Officer) के बारे में बात कही गई है कि रिटर्निंग अफ़सर आखिर कौन हो। रिटर्निंग अफ़सर तो, जैसा कि इसमें सैंट्रल गवर्नमेंट जिसको चाहे रखा गया है, उसी तरह होना चाहिये। इस के लिये हम कोई दूसरा सुझाव रखें तीसरा सुझाव रखें, उससे काम नहीं चलने वाला है। हम इसके अन्दर स्पीकर साहब को या डिप्टी स्पीकर साहब को किसी को बीच में न डालें। मैं तो समझता हूं कि इस में जो गवर्नमेंट के अफसर हैं वही रहें, वही भला करते हैं या बुरा करते हैं, जैसा भी करते हैं वह करते हैं, यश लेते हैं या नहीं लेते हैं, यह सब उन्हीं पर रहने दें। मैं यहां आम चुनाओं के बारे में कोई जिक्र नहीं कर रहा हूं, जैसा कि सैन साहब ने कहा जो बहुत ऊंचा स्थान रखने वाले आदमी हैं और उन्होंने हम सब लोगों की बड़ी प्रशंसा की। वोटर्स (voters) की भी और उम्मीदवारों की भी। लेकिन जो कई तरह की गड़बड़ियां हुई हैं वह शायद उनके ख्याल में भी नहीं आई हों। मैं जिस हिस्से से आता हूं और जिस हिस्से के अनुभव मुझे हैं उनकी बात मैं नहीं करना चाहता हूं कि किस तरह से वहां बातें हुई हैं और किस तरह से चुनाव के दिनों में गड़बड़ियां हुई हैं और उसके पहले कितनी गड़बड़ियां हुई और किस प्रकार से वोटर्स धमकाये डराये गये हैं, क्या क्या किया गया और आज हो रहा है। इन सब बातों को कहने का यह मौका नहीं है और न मैं इसके बारे में अभी कुछ कहना चाहता हूं। लेकिन बैलट बक्स की बात आई। तो जैसा एक मेरे मित्र ने कहा मैं भी जरूर कह सकता हूं कि बैलट बक्सों को किस रीति से बिना सील तोड़े खुल जाते हैं, इसका प्रयोग राजस्थान में भी हुआ है।

श्री कामत : कई जगह हुआ।

श्री भट्ट : हां और दूसरी जगह भी हुआ और दिखाया गया कि यह आपका बैलट बक्स है और आपके कागज की

[श्री भट्ट]

सील जो है उसके तोड़े बगैर ही वह खुल जाता है और उसमें कई पर्चियां डाली जा सकती हैं और उस में से निकाली जा सकती हैं। इस तरह से बातें हुई हैं। अब यह तो हमारे इलैक्शन कमिश्नर साहब को मालूम हुआ होगा और अगर नहीं हुआ होगा तो अब मालूम हो जायगा और उसके बारे में जो ठीक और मुनासिब कार्रवाई करनी होगी वह करेंगे।

यह कहा गया कि रिजैक्शन आफ नामिनेशन और एक्सपटेंस आफ नामिनेशन (rejection of nomination or acceptance of nomination) के बारे में अगर कोई शिकायत हो तो उस शिकायत का फैसला कम से कम इस चुनाव के लिये तो इलैक्शन के पहले होना चाहिये। रिप्रैजेंटेशन आफ पीपुल्स बिल के समय हमारे डा० अम्बेडकर साहब भी खुद यह चाहते थे, लेकिन उस समय यह सोचा गया था क्योंकि ऐसी शिकायतें बहुत ज्यादा होंगी, हजारों होंगी और उन हजारों शिकायतों का फैसला एक महीने के अन्दर करना मुश्किल हो जायगा, इसलिये उस समय वह बात टाल दी गई थी। लेकिन अब तो हम यह सब एक प्रेसीडेंट और एक वाइस प्रेजीडेंट के चुनाव के बारे में ही बिल पास कर रहे हैं—बिल बना रहे हैं। तब इसमें कोई बहुत बड़ी कठिनाई नहीं होगी अगर रिजैक्शन आफ नामिनेशन पेपर या एक्सेपटेंस आफ नामिनेशन पेपर के बारे में कोई शिकायत हो तो दस दिन के अन्दर उसका फैसला हो जाना चाहिये जिससे कि चुनाव के बाद भी फिर वही चीज लटकती न रहे। जैसा आप साहब ने यह फरमाया था उससे मैं भी सहमत हूं और मैं कहता हूं कि हमारे माननीय मंत्री जी इसके बारे में जरूर सोचेंगे।

अब मैं अपने संशोधन के बारे में जब मौका आवेगा तब बताऊंगा। अभी मैं इतनी थोड़ी सी बातें कहते हुए यह सुझाता हूं कि हमारे माननीय मंत्री जी एक इनफारमल मीटिंग बुला कर इस बिल के बारे में सोचविचार करेंगे और हम सब का यहां समय नहीं लिया जायगा।

(English translation of the above speech)

Shri Bhatt: The hon. friend speaking before me has evinced much enthusiasm regarding the Bill under discussion and has expressed a desire that the Bill be considered quite seriously and that ample time should be given to it. The hon. Minister of Law, on the other hand, wants a very speedy passage of the same—by tomorrow if possible. On your part, Sir, in a statement you have suggested its reference to a select committee. However, the views of the hon. Minister on the subject remain to be known and one does not quite know as to how many amendments in all may be tabled to this Bill tomorrow or even about the manner in which they will be disposed of. Whatever the case, I was about to suggest—and I want to make it clear at the very outset—that in case the House decides against the reference of this Bill to a select committee, an informal meeting of the House may be called before which this Bill must come up. No decision can be possible after a discussion of only an hour or two. If all the hon. friends put their heads together for some hours in an informal manner, more success is likely to be achieved in perfecting it. Criticism on many a score has been voiced against this measure. While, on one hand, we agree that the measure is a simple one, on the other hand, we have also to concede that it is of much importance to India as a whole Unlike my hon. brother Shri Alva, I am unable to speak with that measure of seriousness or even so quickly. Nor do I subscribe to the view that the Bill is of such importance as to warrant so much anxiety in its consideration. Generally speaking, the main object of the Bill is to lay down the procedure for election to the offices of President and Vice-President. Two or three points involved therein should be made clear. It is a very small Bill, but, notwithstanding its scanty provisions, their implications are going to be very far-reaching. It has been accepted that the Ministry of Law had inadequate time

at their disposal to be able to incorporate the rules as well in this Bill. It did not entail much difficulty to include those rules. They have included them in respect of certain provisions, but have left them out in respect of the rest. The omission at several places must depend on their will, but probably it was thought to give a proper form to the Bill after some time and only then to incorporate the rules. Shri Kamath has rightly pointed out that our Election Commissioner has thought it proper to go on amending the rules to the last and that, as a result of these enormous amendments, the returning officer showed a lack of knowledge of amendments which were known to him, i.e., Shri Kamath. The said officer came to know of it only when pointed out after which his assistant looked into the papers and confirmed the same. It is not desirable to do things in that manner. There is still time for the passage of this Bill. We should take care lest the rules and sub-rules continue to be framed right to the last. I think we could have incorporated certain rules such as regarding the nomination, the manner, form and the procedure thereof in general. I, however, fail to appreciate the reason why these rules have also been left out. The hon. Minister, should he agree to convene an informal meeting of the House, will then be convinced that it was quite possible to include these rules. We have got already a model set of the said rules with us. They have been stated in the Representation of Peoples Act, 1951. It does not require any further deliberations. Incorporation of those rules here in this Bill will make it possible to give a consolidated form to the whole thing in a single publication. Were it, however, not possible to follow that course, then we will have to look up several publications instead of one and maybe we have to search a particular rule in the Election Manual itself. I am therefore, of the view that it will be more correct to incorporate these rules, if possible, here in this very Bill rather than follow the elaborate procedure indicated by me. It is better to make those rules a part of this very Bill. For that reason, I favour the idea that the Bill should be made a comprehensive measure and we should not be satisfied with the mere enunciation of a general formula which may be open to a number of interpretations.

Now we feel concerned because quite a large number of persons may seek election to the office of the President. In fact, every individual in this land may aspire to become the Head of our State. Personally, I have the belief that even the humblest of our citizens may aspire to be elected as our President. The two requisites are that he should enjoy the confidence of the Nation and, secondly, possess the ability necessary to discharge those duties. The mere fact of an individual being a 'Harijan' is not sufficient to elect him or her as the Head of the State. That will never be possible. Should he or she, however, possess the requisite ability, he may be elected to that highest office of the land and may be destined to occupy the 'Rashtrapati Bhavan' even though formerly he might have lived in a hut. But the question arises here who might be the probable person who can be considered competent to file his nomination papers for that office? The qualifications laid down in the Constitution in respect of the President cannot be altered anyway. I have tabled an amendment on disqualifications as laid down in the Representation of Peoples Act. We should clearly understand the provisions made in Sections 84 and 102 of that Act. But my hon. friend Shri K. T. Shah has pointed out further disqualifications. I, however, hold the view that a person eligible to become a Member of this Parliament and to be our Prime Minister, is also eligible to be elected as our President. It does not require any further qualifications. I am supported in this view by Dr. Pattabhi.

The next issue is the procedure to be followed for filing of nomination papers. Some suggest that there should be a 'proposer' as also a 'seconder'. My hon. friend Shri Venkataraman, however, has suggested that the proposal should be made by ten persons instead of one. He holds the view that a proposal made by ten persons can be considered as 'valid'. Again Shri Alva wants to fix the number at 501 or 1001. Should it be agreed to fix it at ten or fifty, it is possible that the candidate may secure the support of, at least, one legislator from each State Legislature to his name and, thus, manage to make his nomination papers valid. Everyone seems to be concerned here as how to avoid such candidatures. It is very easy for any person to obtain the signature of, at least, one member of each State Legislature and in this way, he can create a 'nuisance value'. The question, therefore, is how to dissuade such persons from coming in. My hon. friend Shri K. T. Shah has expressed the view that, in case the number of proposers is fixed at ten or 25, the importance of the 'ballot' will be lost because those ten or 25 per-

[Shri Bhatt]

sons can already be considered to be in favour of a particular candidate. I may tell him that the same thing will happen in case a candidate files ten nomination papers. Even then it can safely be presumed that, at least so many persons already support him. But these things always happen in any republican set-up. Apart from that, we also know which political party supports which particular candidate. It cannot be kept as a guarded secret. In America, this system has come to stay. There is no legal provision to that effect, still the party nominations are accepted in that country. All this is done under a convention there. Nominations are accepted only on party basis and no person can be nominated who does not enjoy the support of any political party. So that is the position in that country. But we in this country need not impose such rigorous restriction here—*viz.*, that only party candidates can be nominated. An independent candidate possessing the requisite ability will certainly be supported by the members of the various State Legislatures. We should give the maximum latitude and go to the farthest possible extent in the matter.

You may propose again that we can provide a check in the shape of deposit and, accordingly, suggest to fix it at Rs. 100 or Rs. 500/- or Rs. 1,000/- and further say that the sum should be treated as forfeited in the event of the candidate's failure to poll one-fourth or some other proportion of the total votes polled. But then there are people who are in a position to deposit that money—even for the sake of creating confusion in the public mind. Naturally one may ask what is my remedy for the situation? Of course, I have a suggestion to offer. A gentleman came to me to suggest that persons failing to poll the minimum votes should be required to undergo three months' simple imprisonment. The suggestion, however, cannot be taken seriously. I am going to offer an alternate suggestion which you may consider if you think it to be proper. My suggestion is that a person failing to secure one-fourth of the total votes polled should be debarred from re-seeking the election to that office. He is not eligible for the next election if he does not secure one-fourth of the votes polled. Perhaps this way—by imposing a restriction of that type—we may be able to keep the unworthy persons away. It, however, requires some consideration whether or not it is desirable to debar people in that way. I, therefore, submit that we should feel satisfied with having one proposer and one seconder only. The reason why no deposit has been fixed in the Bill before the House, is that we are concerned here with the election of the Head of the State—the President and the Vice-President—and that such a deposit in their case may prove to be derogatory. That perhaps explains why no such provision has been incorporated in the Bill. But from the viewpoint of democratic procedure, it would have been better to make this provision applicable in the case of the President also as has been done in all other cases. In my opinion such a course would not have been improper.

Shri B. Das: We can get a saint for the Presidentship and collect the money for his deposit.

Shri Bhatt: My hon. friend Shri Rohini Kumar has stated that the provision made in respect of the time-table to be followed for nominations, scrutiny and withdrawals, is a very lax one. The procedure, according to him, takes a considerable time. I maintain that there are tasks which cannot be accomplished without giving the number of days as have been fixed in the present case. We have tried to be rigid in the case of the Representation of the Peoples Bill. Viewed in the light of that experience, nothing appears to be improper in the present case.

A reference has been made as to who should be considered competent enough to act as the returning officer. The provision that the returning officer may be appointed by the Central Government, is, in my opinion, in order. It is no use giving alternative suggestion or suggestions in the matter. We should not bring in hon. the Speaker or the Deputy-Speaker. All this should be left to the officers of the Government. They may do right or wrong and may earn credit or discredit. It should be entirely their business. I am making here no reference to the conduct of general elections. Shri Sen—and he is the incumbent of a very elevated office—has paid a glowing tribute to the voters and the candidates. But it is likely that many irregularities that have been committed in the recent elections, have escaped his notice. I do not want to describe here the happenings that have taken place in the part of the country from which I come, nor do I wish to narrate the story of troubles created during or prior to the holding of these elections or even how the voters were threatened. I have also no mind to tell you the doings of various persons or parties or what is happening even to-day. This is no occasion to go into all these things, nor

have I the desire to do so. A reference has, however, been made to the ballot box. As mentioned by an hon. friend before, I am also in a position to say how the ballot boxes can be opened without tampering with the seals. That fact has been made use of in Rajasthan as well.

Shri Kamath: It has been the case at a number of places.

Shri Bhatt: Yes, it happened at other places too and it has been demonstrated satisfactorily how a ballot box could be got opened without tampering with the paper seal and how it was possible to put in and take out the ballot papers. So happenings like that have taken place. I hope the Election Commissioner must have come to know of them and, if not, he will come to know of them and will take suitable action.

It has been said that decisions in regard to the complaints concerning the rejection or acceptance of nominations should be taken prior to the holding of particular elections—at least in the case of the current General Elections. Dr. Ambedkar himself was in favour of this idea while the Representation of Peoples Bill was under discussion here. But then it was thought that such complaints were likely to be numerous and that they may even exceed several thousands and, further, that a month's time was quite inadequate to deal with them. The issue was, therefore passed over at that time. But just now we are going to enact a ligislation in respect of the election of the President and the Vice-President only. The Bill under discussion is, therefore, restricted to that extent. As such, there should be normally no major difficulty to decide and dispose of the complaints, if any, regarding the rejection or acceptance of nomination papers within ten days so that the matter may not be kept pending even after that election. I agree with the remarks made by you, Sir, and I feel reassured to say that the hon. Minister will definitely consider it.

I reserve my observations regarding the constitutional aspects of the matter for a later occasion. With this I suggest that the hon. Minister should convene an informal meeting to consider this Bill rather than take the time of the House.

Shri J. R. Kapoor: I have very few observations to make and I will confine myself to only three or four points. Firstly, I will deal with the question of the appointment of the Returning Officer. This is a very important matter and I think we have no option left in this matter but to leave the question of the appointment of the Returning Officer in the hands of the Election Commission. The Constitution lays down virtually a specific provision in this respect. Article 324 of the Constitution runs thus:

> "The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States shall be vested in a Commission (referred to in this Constitution as the Election Commission)."

This provision lays down definitely that the superintendence, direction and control of the election of the President and the Vice-President shall be vested in the Election Commission. We cannot get away from this provision. My submission, therefore, is that it is not open to us to say, as has been done in clause 3 of this Bill, that the Returning Officer shall be appointed by the Central Government, in consultation with the Election Commission. The provision should be to the effect that the Returning Officer shall be appointed by the Election Commission, in consultation with the Central Government.

Shri B. Das: How did the Election Commission accept this Bill? Why did the Election Commissioner not point out to the Law Minister that he should appoint the Returning Officer?

Shri J. R. Kapoor: I do not know whether the Election Commission was at all consulted by the Government draftsman. Even if he was consulted, it may have been his oversight. There can be no two opinions on the subject that the right of the appointment of the Returning Officer must necessarily under the Constitution, vest in the Election Commission. When we were enacting the Representation of the Peoples Act, good care was taken to see that this right vested in the Election Commission and not in the Central Government. Section 20 of the Representation of the Peoples Act runs thus:

> "For each constituency there shall be a Returning Officer who shall be such officer of Government as the Election Commission may, in consultation with Government appoint."

[Shri J. R. Kapoor]

He need only consult the Government, but the ultimate authority vests in the Election Commission. There was a specific reason for enacting this section and that reason you will find in article 324 of the Constitution. I am sure the hon. the Law Minister will look into this question carefully. I am in my mind sure that it is not open to us to lay down any clause in the terms in which it is proposed to lay down in clause 3 of the Bill. The provision should be to the effect that the Returning Officer shall be appointed by the Election Commission, in consultation with the Central Government. Consultation with the Central Government is necessary in order to find out which particular officer of Government could be made available.

The other point that I would like to deal with is the question of the qualifications of the President. To me it appears more an academic question than one of reality. But so far as the constitutional and legal aspect of the question is concerned, I do not think that if we are so inclined, we are barred from laying down any specific qualification for the President. Article 58 of the Constitution only says that no person shall be eligible for election as President unless he has certain qualifications. It does not say that it is not open to us to lay down further qualifications for the President. Again, article 102 of the Constitution lays down certain disqualifications for membership of Parliament. I understand, Sir, that even you are of the opinion that it is open to Parliament to lay down specific qualifications for the candidature to the House of the People. And we had debated this question at length—our hon. friend Prof. K. T. Shah had debated this question at very great length. Admittedly it was then open to Parliament to lay down certain definite qualifications for a Parliamentary candidate. Suppose at that time we had laid down that he should be a graduate. The position today under article 58 would have been that that educational qualification would have been necessary even in the case of the President, because under article 58 one cannot be a President unless he is eligible to become a Member of the House of the People. So if we could lay down a qualification for election to the House of the People automatically that would have been necessary for election to the office of the President.

My submission is there is no legal or constitutional difficulty. But I am not in agreement with the view that we should lay down any such qualification: firstly, because we did not lay down any such qualification there and, secondly, we can rest assured that Members of Parliament and members of the State Legislatures would be wise and prudent enough not to elect one who, taking everything into consideration, is not a duly qualified person to be elected to the office of President. The third point is—and that seems to be a point of some difficulty, though not much—as to whether it is open to us to lay down that somebody other than the Speaker can be appointed as the Returning Officer so far as the election of the Vice-President is concerned. True, under article 66 we have it that the election of the Vice-President shall be held "at a joint meeting" of both Houses of Parliament. Now, the question is, what does the term "meeting" mean? Is it the same thing as a "sitting" or not? This subject was at some length debated upon in the Constituent Assembly. I remember it very well. Then a distinction was clearly made out between a "meeting" and a "sitting" and we have both those words in the Constitution itself. We have the word "meeting" in article 66. But when we have both the Houses of Parliament meeting together to transact some business we have used the word "sitting" and not "meeting". There are three terms, "session", "sitting" and "meeting". The House is said to be in session though it is not actually sitting. We had this point very much discussed while we were on the measure conferring powers upon the President. So "session" is one thing and "sitting" is another. And "meeting" is the third. I would refer you to article 108 where we have the word "sitting" which occurs in other articles also. Article 108 relates to "joint sitting of both Houses in certain cases". That is the marginal note. In clause (4) of that article we have the words:

> "If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses".

Here my object in reading out this clause of article 108 is that we have used the word "sitting" and not "meeting". Similarly in article 118 we have the word "sitting" again. We have it in the Constitution that when

the two Houses are assembled together at business, that meeting is called "sitting" and on that occasion it is the Speaker of the House of the People who presides. So, clearly enough a "meeting" is different from a "sitting". The question now arises as to who will preside at the meeting of the two Houses when the object of the meeting is to elect a Vice-President. That of course has not been provided for, but it may not even be necessary to have a Chairman of that meeting because Members of both the Houses, when they are assembled together even without a Chairman, would be said to be "meeting" together for the purpose of holding the election. But I was submitting that it would perhaps be advisable if the hon. the Law Minister considers this point and lays it down in the Bill as to who will preside at that meeting, and that the president of the meeting may automatically be the Returning Officer. Perhaps it is not so simple because, as I contended earlier, it is the Election Commission who must appoint the Returning Officer. So I do not think that it will be open to us to lay down definitely as to which particular persons are to preside over that meeting because the president of the meeting, if he is to be the Returning Officer, must be appointed by the Election Commission under article 324.

Shri T. Husain: I was surprised and pained to hear the remark against our judiciary by the seniormost Member of this House. Our judiciary is the only safeguard for this country and I hope that in future we will not pass any adverse remarks against our judiciary.

There are several questions that arise in considering this Bill. The first is as to who should be the Returning Officer.

[MR. SPEAKER *in the Chair*]

Several hon. Members have expressed their opinion that since Parliament is omnipotent and we are going to elect the highest person. . .

Shri B. Das: Sir, on a point of order. Can he say that Parliament is omnipotent—has he said so with respect to us or is he saying so because I passed certain remarks against the judiciary and he wants to cast some reflection?

Dr. Pattabhi: It is a point of potency, not of order!

Shri T. Husain: Speeches have been made, that since this Parliament is the highest tribunal in the country and the country is going to elect the highest officer of the land, therefore the Speaker who represents the House, who is the guardian of the House, of the Members, should preside at the meeting, that either he should be the Returning Officer or that he should appoint somebody as Returning Officer, whereas clause 3 of the Bill lays down that the Central Government shall appoint the Returning Officer in consultation with the Election Commission from among the officers of Government. This has been pointed out that under article 324 of the Constitution the Speaker of the House cannot be the Returning Officer. Article 324 clearly lays down as to who can be the Returning Officer. It has given this power only to one person and no other and that is the Election Commissioner. Article 324 which has just now been read out empowers only the Election Commissioner and he shall appoint a Returning Officer in consultation with Government. Therefore, clause 3, as it stands, *viz.*, the Central Government should appoint in consultation should be changed into "the Election Commission should appoint in consultation with Government". This is very clear, and very simple as already pointed out by my hon. friend, Mr. Kapoor. The Returning Officer has to be an officer of Government under the Constitution. Nobody else can be and the appointment has to be made not by the Speaker, not by the Central Government, not by the Prime Minister, but by the Election Commission only and the Election Commission may, if it likes consult the Central Government. Therefore, a slight change has to be made in clause 3 of the Bill.

With regard to the qualifications of the candidate for the office of the President, my hon. friend, Prof. Shah has spoken at length. He said that the candidate for the office of the President must have certain qualifications, but he had not told us what qualifications he wants the President should have. The only qualification that is required under the Constitution is that he must be a citizen of India, he must be over 35 years of age, and he must be qualified to stand as a candidate for the House of the People. These are the only qualifications. Can we change the Constitution? The Constitution has laid down these. The same qualifications apply to the Members of Parliament. If with the same qualification we can have the highest office, that is of the Prime Minister, why should we have a special qualification for the President of the Republic.

There is one point which has not been dealt with by anybody and that

[Shri T. Husain]

is as to who should propose the candidate, whether a citizen or a Member of Parliament, because the candidate can be any citizen above the age of 35 and then it necessarily follows that any citizen can be a proposer but if we permit a citizen to propose and second the nomination paper of the President, there will be hundreds and thousands of frivolous nomination papers before us. So to guard against it, to avoid it, I think the best course would be that only those people who are entitled to vote as the Members of Parliament, of the two Houses and the elected members of the State Assemblies should be the proposers and seconders of the nomination papers. Then to avoid a frivolous candidature, it has been proposed by some Members that there should be ten persons to propose. My hon. friend, Mr. Alva has said that 501 members of the Electoral College should propose and 501 should second. It makes no difference whether it is ten or five but I do think that they should be more than one and simply to avoid frivolous nomination papers being filed, let there be ten, or some reasonable number. Five hundred and one is too many and it is an extraordinary number and we can have up to 100. My submission is that 501 is too many.

As regards the counting of votes, Mr. Kamath has said a great deal about it and many hon. Members have stated that counting of votes should take place on the same day as the polling. It will be by secret ballot, by single transferable vote, proportional representation etc. What will happen? There will perhaps be a joint meeting of the House of the People and the Council of States at which the Returning Officer will preside and in each State Assembly there will be an Assistant Returning Officer or a Returning Officer and votes will be taken by ballot and they should be opened on the same date. That is the whole point. For instance in Delhi, you will have in one sitting all the Members and they will write out the vote, cross mark everything and then it should be opened the same day. The same thing should happen in all the State Assemblies and then there will be no danger as Mr. Kamath has been pointing out of tampering and other things.

DEATH OF KING GEORGE VI

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Sir, I have to convey sad news to this House. It is with deep regret that I have to inform hon. Members and you, Sir, that a short while ago, occurred the death of His Majesty King George the Sixth of the United Kingdom. As we all know, he had been unwell for a considerable time but had recently recovered and was recuperating and was in fact thinking of undertaking a voyage to recuperate still further. So the news that came a few minutes ago was in the nature of a surprise and a shock and I am sure that this House will deeply sympathize with Her Majesty the Queen, the Princesses and the people of England, with whom the King was so popular. Whatever the views of persons may be here or elsewhere on the question of royalty or republicanism, each country decides for itself; we decided in favour of the republic and we are the Republic of India but it is a significant thing in this world of Republics how the British Royal House has stood firm, firm not in law merely, but firm in the affection of the people of the United Kingdom. All of us who have had any opportunity of visiting England or other parts of the United Kingdom know the extraordinary feelings of affection felt by the people for King George. Therefore, I have no doubt that his death will come as a great sorrow and a shock to them. I would beg of you, Sir, and I would suggest to the House that you might convey to Her Majesty the Queen our deep sorrow at this event and may I also suggest, Sir, that Parliament does not meet tomorrow in view of this happening.

5 P.M.

Mr. Speaker: I entirely associate myself with what the hon. Prime Minister has said. We shall, as a mark of respect, not sit tomorrow and before we part today, we shall all stand in silence for a minute.

The House then adjourned till a Quarter to Eleven of the Clock on Friday, the 8th February, 1952.